

# Michigan Constitutional Convention of 1961

## Committee Proposal 39a

### Const 1963, Art 9, § 8

#### Relevant Material From the Constitutional Convention Record

Cross-Reference and Indices .....	pp. 3437, 3444, 3471
First Reading .....	pp. 696, 785-818, 820-822, 2406
Second Reading .....	pp. 2635-2641
Draft Constitution (Art 9, § 8) .....	pp. 3047-3075 (p. 3068)
Third Reading, Article-by-Article .....	pp. 3185-3187
Draft Constitution (Art 9, § 8) .....	pp. 3215-3237 (p. 3231)
Third Reading, Full Constitution .....	pp. 3300-3301
Adopted Constitution (Art 9, § 8) .....	pp. 3319-3353 (p. 3344)
Address to the People .....	p. 3399

#### Overview of the Constitutional Convention Process

Provisions generally began as Committee Proposals and were then brought to the convention floor for first reading. The majority of debate on the substance of provisions occurred during the first and second readings. There were two third readings; the first on an article-by-article basis and the second reviewing the Constitution as a whole. Following the third readings the entire Constitution was voted on by the delegates. The delegates then created the Notice of Address to the People, summarizing the Constitution on a provision-by-provision basis, which was distributed so that the people could be informed when making their ratification votes.

The convention used ALL CAPS to denote added material and [brackets] to denote removed material.

**State of Michigan**  
**CONSTITUTIONAL CONVENTION**  
**1961 - 1962**  
**OFFICIAL RECORD**



**FRED I. CHASE**  
Secretary of the Convention

**AUSTIN C. KNAPP**  
Editor  
**LYNN M. NETHAWAY**  
Associate Editor

**TABLE III—ARTICLES AND SECTIONS OF 1963 CONSTITUTION TO 1908 CONSTITUTION WITH COMMITTEE PROPOSAL REFERENCE (Continued)**

The Committee Proposal number and section are as re-referred to the committee on style and drafting.

\* Created by the committee on style and drafting.

1963		1908		Committee Proposal	1963		1908		Committee Proposal	1963		1908		Committee Proposal
Art.	Sec.	Art.	Sec.		Art.	Sec.	Art.	Sec.		Schedule		Schedule		
IX	7		none	51	IX	23	X	17,18	37c <sup>1</sup>	1		S	8	44d
IX	8	X	23	39a	IX	24		none	40	2		S	2,3,4	44b
IX	9	X	11	38						3		S	5	44c,71g
IX	10		none	39a	X	1	XVI	8	63	4		S	6	68b
IX	11	X	23	39b	X	2	XIII	1,2	67	5		VI	1	71a
IX	12	X	22	23a	X	3	XIV	1,2,3,4	12			V	2	80b
IX	13	VIII	10, 15a, 20,24	49	X	4	VI	20	74	6			none	91a
					X	5		none	129	7			none	96f
IX	14	X	10	23b	X	6	XVI	9	43	8		VII	23	96j
IX	15	X	10,20a, 23a,24, 25,26	23b						9		XI	2,6	47
					XI	1	XVI	2	25	10			none	98c
		S	4		XI	2	XVI	1	61	11*		XI	7,16	71b
IX	16	X	27,28	23d	XI	3	XVI	3	62	12			none	71b
IX	17	X	16	37b	XI	4	X	19	55	13		X	10,20a, 23a,24, 25,26	6
IX	18	X	12	23c	XI	5	VI	22	22				4	
IX	19	X	13	37d	XI	6		none	76,81m			S		
IX	20	X	15	37a	XI	7	IX	1,2,3,4	42a,b,c,d	14			none	23b
IX	21	X	18	37c,78	XII	1	XVII	1	64	15		S	10	68a
IX	22	VI	20	74	XII	2	XVII	2,3	65	16		S	11	68c
					XII	3	XVII	4	66					

Committee Proposal No.	Page	Committee Proposal No.	Page
31: Cont'd.		36: Cont'd.	
Mar. 27, reported by style and drafting (Report 49); placed on order of second reading .....	1891	Jan. 25, reported on finance and taxation; referred to committee of the whole .....	696
Apr. 18, read second time; passed; rereferred to style and drafting .....	2560-2563	Feb. 2, consideration postponed by committee of the whole .....	766
32. A proposal to provide for eligibility to serve in the legislature. Retains article V, section 5.		Feb. 6, read first time; considered, passed by committee of the whole .....	818-820
For text as offered and reasons .....	764	Feb. 6, reported by committee of the whole without amendment; referred to style and drafting .....	822
As referred to style and drafting .....	764	Apr. 13, reported by style and drafting (Report 60); placed on order of second reading .....	2405
As reported by style and drafting .....	2928	Apr. 19, read second time; amended, passed; rereferred to style and drafting .....	2657-2658
As rereferred to style and drafting .....	2929	(Note: The entire content stricken.)	
Jan. 24, reported by legislative powers; referred to committee of the whole .....	694	37. A proposal to provide for care and control of state funds, accounting for public moneys, audits, and publication of reports, and covering the general subject matter found in sections 15, 16, 17, 18 and 13 of article X of the 1908 constitution.	
Feb. 2, read first time; considered, passed by committee of the whole .....	764-765	For text as offered and reasons .....	766
Feb. 2, reported by committee of the whole without amendment; referred to style and drafting .....	776-777	As referred to style and drafting .....	766
Mar. 5, reported by style and drafting (Report 14); placed on order of second reading .....	1429	As reported by style and drafting .....	2658
Apr. 27, read second time; amended, passed; rereferred to style and drafting .....	2928-2929	As rereferred to style and drafting .....	2658
33. A proposal to provide for immunity of legislators from arrest during sessions except for certain crimes. Amends article V, section 8.		Jan. 25, reported by finance and taxation; referred to committee of the whole .....	696
For text as offered and reasons .....	765	Feb. 2, read first time; considered, passed by committee of the whole .....	766-770
As referred to style and drafting .....	765	Feb. 2, reported by committee of the whole without amendment; referred to style and drafting .....	776-777
As reported by style and drafting .....	2930	Apr. 13, reported by style and drafting (Report 61); placed on order of second reading .....	2406
As rereferred to style and drafting .....	2930	Apr. 19, read second time; passed; rereferred to style and drafting .....	2658-2659
Jan. 24, reported by legislative powers; referred to committee of the whole .....	694	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.	
Feb. 2, read first time; considered, passed by committee of the whole .....	765	For text as offered and reasons .....	775
Feb. 2, reported by committee of the whole without amendment; referred to style and drafting .....	776-777	As referred to style and drafting .....	794
Mar. 5, reported by style and drafting (Report 15); placed on order of second reading .....	1429	As reported by style and drafting .....	2631
Apr. 27, read second time; passed; rereferred to style and drafting .....	2930	As rereferred to style and drafting .....	2631
34. A proposal to provide for quorums of the house and senate and the right of these bodies to compel attendance. Amends article V, section 14.		Jan. 25, reported by finance and taxation; referred to committee of the whole .....	696
For text as offered and reasons .....	765	Feb. 2, read first time; considered by committee of the whole .....	775-776
As referred to style and drafting .....	765	Feb. 5, considered, amended, passed by committee of the whole .....	780-785
As reported by style and drafting .....	2950	Feb. 5, reported by committee of the whole with 1 amendment; amendment concurred in; referred to style and drafting .....	794
As rereferred to style and drafting .....	2950	Apr. 13, reported by style and drafting (Report 62); placed on order of second reading .....	2406
Jan. 24, reported by legislative powers; referred to committee of the whole .....	694	Apr. 19, read second time; passed; rereferred to style and drafting .....	2631-2635
Feb. 2, read first time; considered, passed by committee of the whole .....	765	39. A proposal with reference to the earmarking of sales tax revenues covering the subject matter of section 23 of article X of the 1908 constitution.	
Feb. 2, reported by committee of the whole without amendment; referred to style and drafting .....	776-777	For text as offered and reasons .....	785
Mar. 5, reported by style and drafting (Report 16); placed on order of second reading .....	1429	For minority reports and reasons .....	786
Apr. 30, read second time; passed; rereferred to style and drafting .....	2950-2951	As referred to style and drafting .....	785
35. A proposal to provide that the form of legislation shall be by bill. Retains article V, section 19.		As reported by style and drafting .....	2635
For text as offered and reasons .....	766	As rereferred to style and drafting .....	2641
As referred to style and drafting .....	766	Jan. 25, reported by finance and taxation; referred to committee of the whole .....	696
As reported by style and drafting .....	2953	Feb. 5, read first time; considered by committee of the whole .....	785-806
As rereferred to style and drafting .....	2953	Feb. 6, considered, passed by committee of the whole .....	807-818
Jan. 24, reported by legislative powers; referred to committee of the whole .....	695	Feb. 6, reported by committee of the whole without amendment; referred to style and drafting .....	820-822
Feb. 2, read first time; considered, passed by committee of the whole .....	766	Apr. 13, reported by style and drafting (Report 63); placed on order of second reading .....	2406
Feb. 2, reported by committee of the whole without amendment; referred to style and drafting .....	776-777	Apr. 19, read second time; amended, passed; rereferred to style and drafting .....	2635-2641
Mar. 5, reported by style and drafting (Report 17); placed on order of second reading .....	1429	40. A proposal with reference to public retirement systems. Amends article X by adding a section.	
Apr. 30, read second time; passed; rereferred to style and drafting .....	2953-2954	For text as offered and reasons .....	770
36. A proposal with reference to the use to be made of the primary school interest fund, covering the subject matter now found in article X, section 1 of the 1908 constitution.		As referred to style and drafting .....	778
For text as offered and reasons .....	818	As reported by style and drafting .....	2659
As referred to style and drafting .....	818	As rereferred to style and drafting .....	2659
As reported by style and drafting .....	2657		
As rereferred to style and drafting .....	2658		



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Article VIII, Section 7: Cont'd.	
Aug. 1, considered; adopted .....	3291-3301
For text as adopted .....	3343
For text, and comments in address to the people .....	3397
Section 8. Services for handicapped persons. (Committee Proposal 13)	
May 7, reported; placed on order of third reading ..	3045
May 8, read third time, passed .....	3146-3149
May 9, referred to committee on style and drafting ..	3210
May 11, reported; placed on order of third reading; considered read third time; passed .....	3213-3275
Aug. 1, considered; adopted .....	3291-3301
For text as adopted .....	3343
For text, and comments in address to the people .....	3397
Section 9. Public libraries, fines. (Committee Proposal 31)	
May 7, reported; placed on order of third reading ..	3045
May 8, read third time, passed .....	3146-3149
May 9, referred to committee on style and drafting ..	3210
May 11, reported; placed on order of third reading; considered read third time; passed .....	3213-3275
Aug. 1, considered; adopted .....	3291-3301
For text as adopted .....	3343
For text, and comments in address to the people .....	3397
ARTICLE IX. Finance and taxation. (Committee Proposals 23a, b, c, d, 37a, b, c, c', d, 38, 39a, b, 40, 49, 50, 51, 52, 54, 56, 74 and 78)	
May 7, reported; placed on order of third reading ..	3045
May 9, read third time; sections 4, 6, 11, 18 and 19 amended; passed .....	3159-3170, 3176-3186
May 9, referred to committee on style and drafting ..	3210
May 11, reported; placed on order of third reading; considered read third time; passed .....	3213-3275
Aug. 1, considered; adopted .....	3291-3301
For text as adopted .....	3343-3346
For text, and comments in address to the people .....	3398-3402
Section 1. Taxes for state expenses. (Committee Proposal 50)	
May 7, reported; placed on order of third reading ..	3045
May 9, read third time; passed .....	3159-3170, 3176-3186
May 9, referred to committee on style and drafting ..	3210
May 11, reported; placed on order of third reading; considered read third time; passed .....	3213-3275
Aug. 1, considered; adopted .....	3291-3301
For text as adopted .....	3343
For text, and comments in address to the people .....	3398
Section 2. Power of taxation, relinquishment. (Committee Proposal 54)	
May 7, reported; placed on order of third reading ..	3045
May 9, read third time, passed .....	3159-3170, 3176-3186
May 9, referred to committee on style and drafting ..	3210
May 11, reported; placed on order of third reading; considered read third time; passed .....	3213-3275
Aug. 1, considered; adopted .....	3291-3301
For text as adopted .....	3343
For text, and comments in address to the people .....	3398
Section 3. Property taxation; uniformity, assessments, classes. (Committee Proposal 51)	
May 7, reported; placed on order of third reading ..	3045
May 9, read third time, passed .....	3159-3170, 3176-3186
May 9, referred to committee on style and drafting ..	3210
May 11, reported; placed on order of third reading; considered read third time; passed .....	3213-3275
Aug. 1, considered; adopted .....	3291-3301
For text as adopted .....	3343
For text, and comments in address to the people .....	3398
Section 4. Exemption of religious or educational non-profit organizations. (Committee Proposal 51)	
May 7, reported; placed on order of third reading ..	3045
May 9, read third time, amended, passed .....	3159-3170, 3176-3186
May 9, referred to committee on style and drafting ..	3210
May 11, reported; placed on order of third reading; considered read third time; passed .....	3213-3275
Aug. 1, considered; adopted .....	3291-3301
For text as adopted .....	3343
For text, and comments in address to the people .....	3398

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Section 5. Assessment of property of public service businesses. (Committee Proposal 52)	
May 7, reported; placed on order of third reading ..	3045
May 9, read third time, passed .....	3159-3170, 3176-3186
May 9, referred to committee on style and drafting ..	3210
May 11, reported; placed on order of third reading; considered read third time; passed .....	3213-3275
Aug. 1, considered; adopted .....	3291-3301
For text as adopted .....	3343
For text, and comments in address to the people ..	3398
Section 6. 15 mill limitation. Nonapplication of limitation. School districts in 2 or more counties. (Committee Proposal 56)	
May 7, reported; placed on order of third reading ..	3045
May 9, read third time, amended, passed .....	3159-3170, 3176-3186
May 9, referred to committee on style and drafting ..	3210
May 11, reported; placed on order of third reading; considered read third time; passed .....	3213-3275
Aug. 1, considered; adopted .....	3291-3301
For text as adopted .....	3344
For text, and comments in address to the people ..	3399
Section 7. Income tax. (Committee Proposal 51)	
May 7, reported; placed on order of third reading ..	3045
May 9, read third time, passed .....	3159-3170, 3176-3186
May 9, referred to committee on style and drafting ..	3210
May 11, reported; placed on order of third reading; considered read third time; passed .....	3213-3275
Aug. 1, considered; adopted .....	3291-3301
For text as adopted .....	3344
For text, and comments in address to the people ..	3399
Section 8. Sales tax. (Committee Proposal 39a)	
May 7, reported; placed on order of third reading ..	3045
May 9, read third time, passed .....	3159-3170, 3176-3186
May 9, referred to committee on style and drafting ..	3210
May 11, reported; placed on order of third reading; considered read third time; passed .....	3213-3275
Aug. 1, considered; adopted .....	3291-3301
For text as adopted .....	3344
For text, and comments in address to the people ..	3399
Section 9. Motor vehicle fuel and other taxes to be used for highway purposes. (Committee Proposal 38)	
May 7, reported; placed on order of third reading ..	3045
May 9, read third time, passed .....	3159-3170, 3176-3186
May 9, referred to committee on style and drafting ..	3210
May 11, reported; placed on order of third reading; considered read third time; passed .....	3213-3275
Aug. 1, considered; adopted .....	3291-3301
For text as adopted .....	3344
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Section 10. Sales tax, distribution to local governments. (Committee Proposal 39a)	
May 7, reported; placed on order of third reading ..	3045
May 9, read third time, passed .....	3159-3170, 3176-3186
May 9, referred to committee on style and drafting ..	3210
May 11, reported; placed on order of third reading; considered read third time; passed .....	3213-3275
Aug. 1, considered; adopted .....	3291-3301
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Section 11. State school aid fund, source and distribution. (Committee Proposal 39b)	
May 7, reported; placed on order of third reading ..	3045
May 9, read third time, amended, passed .....	3159-3170, 3176-3186
May 9, referred to committee on style and drafting ..	3210
May 11, reported; placed on order of third reading; considered read third time; passed .....	3213-3275
Aug. 1, considered; adopted .....	3291-3301
For text as adopted .....	3344
For text, and comments in address to the people ..	3400
Section 12. Evidence of state indebtedness. (Committee Proposal 23a)	
May 7, reported; placed on order of third reading ..	3045
May 9, read third time, passed .....	3159-3170, 3176-3186
May 9, referred to committee on style and drafting ..	3210
May 11, reported; placed on order of third reading; considered read third time; passed .....	3213-3275
Aug. 1, considered; adopted .....	3291-3301

# SIXTY-FIFTH DAY

Thursday, January 25, 1962, 2:00 o'clock p.m.

## PROCEEDINGS

**PRESIDENT NISBET:** The convention will please come to order.

Our invocation today will be given by Father William J. Koenigsknecht of the St. Therese church of Lansing.

**FATHER KOENIGSKNECHT:** In the name of the Father and of the Son and of the Holy Spirit. Amen.

Direct, we beseech Thee, O Lord, our actions by Thy inspiration, and further them with Thy continual help; that every prayer and work of ours may always begin from Thee, and through Thee be brought to an end.

Assist us with Thy heavenly grace, that we may be able to fulfill our most sacred duty and stewardship. Teach us both what to give and what to withhold; when to reprove and when to forbear; make us considerate and watchful; and deliver us equally from the weakness of indulgence, and the excess of severity; grant that, both by word and example, we may be careful to lead in the ways of wisdom and true piety.

In the name of the Father and of the Son and of the Holy Spirit. Amen.

**PRESIDENT NISBET:** The roll call will be taken by the secretary. Those present, please vote aye.

**SECRETARY CHASE:** Has everyone voted? The machine is now locked and the attendance will be recorded.

Mr. President, a quorum of the convention is present.

Prior to today's session, the secretary received the following requests for leave:

Messrs. J. B. Richards and Habermehl, from today's session; and Mr. McCauley, from today's session as well as Friday and possibly Monday, due to a death in his immediate family.

**PRESIDENT NISBET:** Without objection, the requests are granted.

**SECRETARY CHASE:** Absent with leave: Messrs. Balcer, Douglas, Habermehl, McCauley, J. B. Richards, Shackleton, Shanahan and Thomson.

Absent without leave: Mr. Hodges.

**PRESIDENT NISBET:** Without objection, Mr. Hodges is excused.

### Reports of standing committees.

**SECRETARY CHASE:** Mr. Brake, for the committee on finance and taxation, introduces

**Committee Proposal 36,** A proposal with reference to the use to be made of the primary school interest fund, covering the subject matter now found in article X, section 1 of the 1908 constitution; with the recommendation that it pass.

D. Hale Brake, chairman.

*For Committee Proposal 36 and the reasons submitted in support thereof, see below, page 818.*

**PRESIDENT NISBET:** It will be referred to the committee of the whole and place on the general orders calendar.

**SECRETARY CHASE:** Mr. Brake, for the committee on finance and taxation, introduces

**Committee Proposal 37,** A proposal to provide for care and control of state funds, accounting for public moneys, audits, and publication of reports, and covering the general subject matter found in sections 15, 16, 17, 18 and 13 of article X of the 1908 constitution; with the recommendation that it pass.

D. Hale Brake, chairman.

*For Committee Proposal 37 and the reasons submitted in support thereof, see below, page 766.*

**PRESIDENT NISBET:** Referred to the committee of the whole and placed on the general orders calendar.

**SECRETARY CHASE:** Mr. Brake, for the committee on finance and taxation, introduces

**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; with the recommendation that it pass.

D. Hale Brake, chairman.

*For Committee Proposal 38 and the reasons submitted in support thereof, see below, pages 775 or 780.*

**PRESIDENT NISBET:** Referred to the committee of the whole and placed on the general orders calendar.

**SECRETARY CHASE:** Mr. Brake, for the committee on finance and taxation, introduces

**Committee Proposal 39,** A proposal with reference to the earmarking of sales tax revenues covering the subject matter of section 23 of article X of the 1908 constitution; with the recommendation that it pass.

D. Hale Brake, chairman.

*For Committee Proposal 39 and the reasons submitted in support thereof, see below, page 785.*

**PRESIDENT NISBET:** Referred to the committee of the whole and placed on the general orders calendar.

**SECRETARY CHASE:** Mr. Brake, for the committee on finance and taxation, introduces

**Committee Proposal 40,** A proposal with reference to public retirement systems. Amends article X by adding a section; with the recommendation that it pass.

D. Hale Brake, chairman.

*For Committee Proposal 40 and the reasons submitted in support thereof, see below, page 770.*

**PRESIDENT NISBET:** Referred to the committee of the whole and placed on the general orders calendar.

**SECRETARY CHASE:** Mr. Hoxie, for the committee on legislative powers, introduces

**Committee Proposal 41,** A proposal to provide for a 2/3 vote of the legislature for nongovernmental appropriations. Retains article V, section 24; with the recommendation that it pass.

T. Jefferson Hoxie, chairman.

*For Committee Proposal 41 and the reasons submitted in support thereof, see below, page 837.*

**PRESIDENT NISBET:** Referred to the committee of the whole and placed on the general orders calendar.

**SECRETARY CHASE:** Mr. Hoxie, for the committee on legislative powers, introduces

**Committee Proposal 42,** A proposal to include in the constitution all of sections 1, 2, 3, 4 and 8 of article IX entitled "impeachments and removals from office"; with the recommendation that it pass.

T. Jefferson Hoxie, chairman.

*For Committee Proposal 42 and the reasons submitted in support thereof, see below, page 837.*

What about the roadside parks? How about state police for patrol work? Are these highway uses or are they not highway uses?

And our conclusion was that instead of writing those specific items into the constitution of this state, we might better leave it to the legislature to make the definition so that from time to time as needs change, the definition could be changed. And due to the fact that down through the years the legislature has beaten down every attempt to use highway funds on questionable items, we thought that it was perfectly safe to leave that matter in their hands.

CHAIRMAN MARTIN: Mr. Faxon.

MR. FAXON: I had the same question, Mr. Brake, and I was thinking, now in terms of the wording as it is presently in the constitution or in the proposed amendment, could it be construed, for instance, to mean, say, driver education classes? And then if the legislature were to so define, then it would be up to the courts to determine whether this is in the context of highway use?

CHAIRMAN MARTIN: Mr. Brake.

MR. BRAKE: I think the courts would have very little to do in that connection if the legislature specifically stated that that was a highway use. This leaves it to the legislature to define it.

MR. FAXON: Would you think, then, that driver education could be, conceivably, a part of this?

MR. BRAKE: I cannot forecast what the legislature might do except by looking at what it has refused to do in the past. On that basis I would say they would not do it.

MR. FAXON: I just want to support driver education. (laughter)

CHAIRMAN MARTIN: Mr. Allen.

MR. ALLEN: Mr. Chairman, I would like to ask Mr. Brake a similar question and probably receive a similar answer. The question has come up from time to time in connection, Mr. Brake, with possible diversion of gas and weight taxes to cities for the purpose of assisting a municipality that is having difficulty in keeping its mass transit system. This has come before the legislature from time to time. And I wonder if this point was discussed in your committee, and whether or not you would think that under the proposed language, the legislature, if it saw fit to do so, would be permitted to divert gas and weight taxes to assist cities that were having difficulty with the mass transit system.

MR. BRAKE: Well, the proposals, Mr. Allen, in the legislature as I remember it, have not been to divert it exactly, but to excuse the bus lines from paying at least as high a rate for weight and gas as other people do. I would say very certainly that kind of thing would be within the power of the legislature to define. Now, to take the money and give it to a transportation system as a sort of a bonus might be more questionable, and that has not been the approach in the legislature.

MR. ALLEN: This is why I raised the question, because I know both types have been suggested, but the one type of excusing the weight taxes was given more receptive consideration by the legislature than the other.

CHAIRMAN MARTIN: Mr. Pollock.

MR. POLLOCK: Mr. Chairman, a question for the chairman of the committee, please. Since so many people have expressed their opposition to earmarking as such, and since we are concerned here not with next year but with the decades which are ahead of us, I was wondering if the committee considered the possibility of attaching to such earmarking provisions a time limit within which the legislature could then get us back on a more normal basis.

CHAIRMAN MARTIN: Mr. Brake.

MR. BRAKE: We did consider that in connection with the sales tax, Dr. Pollock, not with the weight and gas tax. We figure that there is just no use in butting our head against a stone wall on this.

CHAIRMAN MARTIN: Mr. Stafseth.

MR. STAFSETH: I might point out, Dr. Pollock, that actually in this road business you have a continuous maintenance proposition that you can't get away from so you have to

have a continuing tax. You could never discontinue some form of income or we wouldn't have roads within a very short time.

CHAIRMAN MARTIN: Are there any amendments to the body of the proposal? If not, it will be passed.

Committee Proposal 38 is passed.

SECRETARY CHASE: Item 2 on the calendar, from the committee on finance and taxation, by Mr. Brake, chairman, Committee Proposal 39, A proposal with reference to the earmarking of sales tax revenues covering the subject matter of section 23 of article X of the 1908 constitution.

*Following is Committee Proposal 39 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. [There shall be returned to local governmental units by the method hereinafter set forth,  $\frac{1}{2}$  cent of a state sales tax levy on each dollar of sales of tangible personal property on the 1946 statutory base (not rate). The state disbursing authority shall remit to counties as a whole on a population basis and payment shall be made to the county treasurer who shall remit to the respective cities, townships and villages within the county on a per capita basis. Population computation shall be based on the last and each succeeding statewide federal census for purposes of division among counties and upon the same basis or upon any special federal countywide census, whichever is later, for intracounty division purposes. There shall be excluded from such computation 50 per cent of the total number of persons who are wards, patients or convicts committed to or domiciled in any city institution located outside the boundaries of said city or committed to or domiciled in any county, state or federal tax supported institution, provided such persons were included in said federal census. All remittances provided shall be made on a quarterly basis.] THERE SHALL BE RETURNED TO CITIES, TOWNSHIPS AND VILLAGES ON A POPULATION BASIS, AS PROVIDED BY LAW,  $\frac{1}{2}$  CENT OF A STATE SALES TAX LEVY ON EACH DOLLAR OF SALES OF TANGIBLE PERSONAL PROPERTY.

There shall be set aside for the school districts 2 cents of a state sales tax levy on each dollar of sales of tangible personal property [on the 1946 statutory base (not rate)], to be allocated among said school districts by law. Such taxes so collected shall be [deposited in a special school aid fund and be] expendable only by legislative appropriations for aid to the school districts and school employees' retirement purposes as shall be provided by law. [Said school aid fund shall be separate and distinct from the state general fund.]

Prior to any division or allocation of the sales tax, the cost of collection as determined by the department of revenue shall be deducted from total collections and credited to the general fund of the state.

[The legislature shall by law appropriate from the school aid fund for such public school employees' retirement systems as shall from time to time be in effect under the laws of this state an amount which shall not be less than 5 per cent nor more than  $7\frac{1}{2}$  per cent of the salaries of school district employees participating in the respective retirement systems. Such percentages shall apply only to that portion of salary as may be provided by law. At no time shall the legislature levy a sales tax of more than 4 per cent.] AT NO TIME SHALL THE LEGISLATURE LEVY A SALES TAX ON RETAILERS AT A RATE OF MORE THAN 4 PER CENT OF THEIR GROSS TAXABLE SALES OF TANGIBLE PERSONAL PROPERTY.

Mr. Brake, chairman of the committee on finance and taxation, submits the following reasons in support of Committee Proposal 39:

The committee proposes, by a majority vote, to retain the earmarking of sales tax money and to retain the dis-

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

tribution thereof, now prevailing. The decision of the committee was not unanimous.

A great part of the language of the present section 23 has been eliminated as unnecessary. It was the feeling of the committee that the stricken language was properly statutory and not constitutional, and that the legislature should be left with the power to supply any detail not provided for in an abbreviated statement in the new constitution.

There was a general recognition by the committee, that as a matter of theory, this is not the best way to run a government, but the majority of the committee reasoned that upon this subject the people had spoken—and had done so recently—and that when the people speak they are the “boss”. The members of the committee feel that we are drawing a constitution that will be worth keeping, and are not unmindful of the fact that it will not be kept unless the voters approve it.

So far as the 2 cents for the schools are concerned, the provision is placing no additional burden on the state. For 4 years in succession the legislature has appropriated to the schools substantially more than the 2 cents and is certain to do so in the foreseeable future.

As to the ½ cent distributed to the local units of government, were this amount taken away from a city it would have to be replaced. On the average we are advised that the sales tax amounts to from 12 to 15 per cent of the cities' budgets. They are not in position to reduce their expenditures by that amount. While it may be that this convention will broaden the tax base of the municipalities it will take time before the cities are able to make use of that authority, and it may be impracticable for the smaller cities to make great use of this authority.

As to the townships the percentage of the budget coming from the sales tax is, of course, much larger, and for the ordinary township any other kind of tax other than the property tax is impracticable. They can get under our present system only a very small allocation of millage. Were they to lose the sales tax, millage would have to be given to them to replace it, and the counties are operating at minimum as it is. The extra millage to the township would come almost entirely out of the share of the 15 mills now received by the schools with the net result that the schools would be claiming so much more state aid.

*Following is minority report A to Committee Proposal 39 as offered and the reasons submitted in support thereof:*

Messrs. Austin, Binkowski, Ostrow, Pellow, Stopczynski, Walker and Young, a minority of the committee on finance and taxation, submit the following minority report A to Committee Proposal 39:

A minority of the committee recommends that the following be included in the constitution:

Sec. a. [There shall be returned to local governmental units by the method hereinafter set forth, ½ cent of a state sales tax levy on each dollar of sales of tangible personal property on the 1946 statutory base (not rate). The state disbursing authority shall remit to counties as a whole on a population basis and payment shall be made to the county treasurer who shall remit to the respective cities, townships and villages within the county on a per capita basis. Population computation shall be based on the last and each succeeding statewide federal census for purposes of division among counties and upon the same basis or upon any special federal countywide census, whichever is later, for intracounty division purposes. There shall be excluded from such computation 50 per cent of the total number of persons who are wards, patients or convicts committed to or domiciled in any city institution located outside the boundaries of said city or committed to or domiciled in any county, state or federal tax supported institution, provided such persons were included in said federal census. All remittances provided shall be made on a quarterly basis.] **THERE SHALL BE RETURNED TO CITIES,**

**TOWNSHIPS AND VILLAGES ON A POPULATION BASIS, AS PROVIDED BY LAW, ½ CENT OF A STATE SALES TAX LEVY ON EACH DOLLAR OF SALES OF TANGIBLE PERSONAL PROPERTY ON THE 1946 STATUTORY BASE (NOT RATE).**

There shall be set aside for the school districts 2 cents of a state sales tax levy on each dollar of sales of tangible personal property on the 1946 statutory base (not rate), to be allocated among said school districts by law. Such taxes so collected shall be [deposited in a special school aid fund and be] expendable only by legislative appropriations for aid to the school districts and school employees' retirement purposes as shall be provided by law. [Said school aid fund shall be separate and distinct from the state general fund.]

Prior to any division or allocation of the sales tax, the cost of collection as determined by the department of revenue shall be deducted from total collections and credited to the general fund of the state.

[The legislature shall by law appropriate from the school aid fund for such public school employees' retirement systems as shall from time to time be in effect under the laws of this state an amount which shall not be less than 5 per cent nor more than 7½ per cent of the salaries of school district employees participating in the respective retirement systems. Such percentages shall apply only to that portion of salary as may be provided by law. At no time shall the legislature levy a sales tax of more than 4 per cent.] **AT NO TIME SHALL THE LEGISLATURE LEVY A SALES TAX ON RETAILERS AT A RATE OF MORE THAN 4 PER CENT OF THEIR GROSS TAXABLE SALES OF TANGIBLE PERSONAL PROPERTY.**

Messrs. Austin, Binkowski, Ostrow, Pellow, Stopczynski, Walker and Young, a minority of the committee on finance and taxation, submit the following reasons in support of the foregoing minority report, which accompanied Committee Proposal 39:

The committee on finance and taxation has submitted Committee Proposal 39 to retain in effect the dedication of sales tax revenue provided in section 23, article X of the present constitution.

Section 23 requires distribution of sales tax revenue to local governments and school districts in amounts determined “on the 1946 statutory base (not rate)”. The quoted language was included in the 1954 amendment to section 23 to place a floor under the base of allocations to the recipients. Even if the legislature could be persuaded to remove segments or classes of sales from the sales tax base, it could not thereby reduce the amount of distributions to local governments and school districts below that which would have been distributable had the tax base remained as it was in 1946.

The committee decided to delete from section 23 the language quoted above which requires distributions in amounts determined “on the 1946 statutory base (not rate)”. Deletion of this language as provided by the committee proposal tends to place the guaranteed minimum base of support in jeopardy.

The sponsors of the attached amendment to the report of the committee on finance and taxation, seeking to retain the quoted language deleted by the committee's report, submit the following comments in support of their appeal for retention:

1. The purpose of the constitutional provision for dedication of 2 cents of each 4 cents of sales tax collected for distribution to school districts and ½ cent for local governments is to assure a minimum guarantee of state support for these units. If the guarantee is to remain reasonably effective it is essential that the tax base upon which distributions are to be determined be specified in the constitution to designate and assure the level of benefits sought to be accomplished. A base date (the original 1946 date is satisfactory) therefore should be included to prevent legislative reduction of the support.

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

2. There have been numerous recommendations from various sources to remove by legislation food and drugs from the sales tax base—which would result in a revenue reduction of more than \$90 million annually. The impact on distributions resulting from the removal of these items from the sales tax would be as follows:

	Under present constitution (and per this amendment) (in millions)	Under the committee proposal (in millions)
Estimated sales tax revenue, fiscal 1961-62 .....	\$440	\$440
Loss of revenue through ex- emption of food and drugs (approximate) .....	90	90
Estimated revenue, assuming food and drugs exempt) ..	350	350
Approximate distribution to local units of government— ½ cent—1946 base .....	55	43.75
½ cent—new base .....		
Approximate distribution to school districts— 2 cents—1946 base .....	220	175
2 cents—new base .....		

Even if the state general fund recovered the lost sales tax revenue from another source, the school funds under the committee proposal are tied to sales tax revenue. The base guarantee would be absent with no adequate guarantee to replace. As long as the 1946 base exists, the legislature is responsible for continuing the full guarantee regardless of the source and this is supported by the attorney general's opinion which has not been challenged. (Attorney general's opinion (1956) 2470).

3. With the costs of school maintenance and local government services on the incline, it does not seem appropriate to be tinkering with the minimum base of their state support.

4. Since the public support of the schools was so overwhelmingly expressed in constitutional amendments, a firm precedent has been established. School districts now depend on this guaranteed revenue base. What is sought by this amendment is continuation of this guarantee, now familiar and understood. No one quarrels with the idea that it might be possible to find substitute formulae to ensure that guarantee. But the committee's present wording does not provide such substitutes, just makes the base vulnerable to reduction by legislation.

The committee decision in effect, therefore, vitiates the deduction of sales tax for schools and local governments and amounts to a "back door" approach to weaken such earmarking.

A base is absolutely necessary to guarantee the minimum amounts insured by the present constitutional provision and by the minority report.

Without such a base, the budgets of local units of government and school districts throughout the state may be seriously endangered.

*Following is minority report B to Committee Proposal 39 as offered and the reasons submitted in support thereof:*

Messrs. Upton, Davis and Seyferth, a minority of the committee on finance and taxation, submit the following minority report B to Committee Proposal 39:

A minority of the committee recommends that the following be included in the constitution:

IN EACH OF THE 5 FISCAL YEARS FOLLOWING THE ADOPTION OF THIS CONSTITUTION, THE LEGISLATURE SHALL APPROPRIATE ½ CENT OF A STATE SALES TAX TO THE CITIES, VILLAGES AND TOWNSHIPS ON THE BASIS PROVIDED IN THE CONSTITUTION OF 1908. STATE SUPPORT FOR

CITIES, VILLAGES AND TOWNSHIPS MAY BE CONTINUED THEREAFTER.

THE LEGISLATURE SHALL APPROPRIATE ANNUALLY TO THE SCHOOL DISTRICTS OF THIS STATE, TO SUPPLEMENT FUNDS RAISED LOCALLY, SUFFICIENT FUNDS TO ASSURE ADEQUATE OPPORTUNITY FOR PRIMARY AND SECONDARY EDUCATION IN EVERY SCHOOL DISTRICT.

Messrs. Upton, Davis and Seyferth, a minority of the committee on finance and taxation, submit the following reasons in support of the foregoing minority report, which accompanied Committee Proposal 39:

This minority report on the question of constitutional dedication of particular funds, otherwise known as "earmarking", is submitted because of the fundamental character of the issue involved, the clear division of opinion within the committee on finance and taxation, and the fact that the convention should have an opportunity to consider and vote upon the matter.

This report relates only to Committee Proposals 36 and 39 dealing with taxes earmarked for the primary school interest fund and the sales tax. The report does not apply to Committee Proposal 38 dealing with the earmarking of motor fuel and weight taxes for highway purposes. The amendments set forth above are presented as a complete substitute for Committee Proposals 36 and 39.

As demonstrated by their suggested amendment to the committee proposal the above named members of the finance and taxation committee believe in state support for local education to supplement funds raised locally. Furthermore, we do not object to state collection of taxes all or part of which may be redistributed by the legislature to local units of government.

We firmly believe, however, that the appropriation of state revenues is and should be the responsibility of the legislature. One of the most important functions of a legislature in a system of representative government is to review, weigh and pass upon the multitude of conflicting demands for public funds. A constitution which removes from legislative control the proceeds of 12 different state taxes (sales tax, motor fuel tax, auto weight tax, inheritance tax, corporation organization tax, foreign insurance company tax, railroad tax, telephone and telegraph tax, car loaning tax, express company tax, escheats), involving over 60 per cent of total state revenues, negatives the principle of representative government, and leaves little real power or responsibility in the hands of the elected representatives. If the legislature is to be strong, effective and responsive it must be given not only the responsibility but the flexibility and power to deal with the state's fiscal problems.

The following arguments have been made in support of the continued earmarking of the sales tax and of the taxes contributed to the primary school interest fund:

1. It is argued that without earmarking, the legislature will not appropriate enough money to local school districts. However, the fact is that in each of the last 5 fiscal years the legislature has appropriated more money in the support of local school districts than the constitution now requires. The groups interested in continued earmarking are unanimous in their insistence that the earmarked funds alone are not enough.

2. It is argued that although the legislature for several years has appropriated more than the earmarked funds it would not continue to do so in the event the state were in financial difficulty. However, in 1959 when the state's fiscal situation was so perilous that a public payroll was not met, the school districts nevertheless received more than the constitutionally earmarked funds.

3. It is argued that the earmarking does no harm. While there is no positive present evidence of harm, nevertheless it is apparent that Michigan needs major revision of its tax structure. Obviously the fact that so much of

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

the present financial structure is inflexibly frozen in the constitution can only be an impediment to overall tax reform. The argument was made in 1954 that the 3 per cent limit on the sales tax would do no harm. However, the problems of 1959 and 1960 demonstrated the error of that prediction.

4. It is argued that the people voted for earmarking and therefore it should be retained. The people have not voted on the earmarking of taxes contributed to the primary school interest fund since 1908. With respect to the sales tax earmarking we submit that the popular support for these amendments in 1946 and 1954 was not so much for the principle of earmarking as for the principle of adequate state support for local education. It is noteworthy that among the principal proponents of the argument that popular initiation and approval of this constitutional provision should render it immune to change are those who advocate most strongly rejection of the apportionment system initiated and adopted by the people in 1952. Such an argument might be fairly paraphrased, "The people are always right except when they disagree with me."

5. It is argued that while constitutional earmarking is unsound in principle it would be discriminatory to eliminate the earmarking to which this report is directed while retaining the earmarking of highway funds. Those of us submitting this report believe that the earmarking of gasoline and weight taxes for highway purposes can be justified on the basis of the logical relationship between the source of the funds and the dedicated purpose. No similar relationship exists for example between the foreign insurance company tax and primary education, or between the sales tax and support of junior colleges or school employees' retirement systems.

6. It is argued that to eliminate constitutionally earmarked support for local units of government and for schools districts would create immediate hardship. The amendments proposed by this minority report contemplate continued state support for school districts. With respect to local units of government the present earmarking would be continued for 5 years and might be continued by statute thereafter. It is believed that 5 years should be sufficient time to enable cities and villages in particular to utilize the additional tax authority granted to them by the proposal of the committee on local government. In the case of townships, some support might be required indefinitely, but the legislature could at least make a more intelligent distribution than under the present arbitrary and inflexible system.

If Michigan's new constitution is to be a truly progressive, constructive document, setting a national example, it must be more than a rubber stamp of the 1908 constitution with all of its cluttering amendments. It should be simple and flexible, and should give to the legislature in particular broad responsibility and powers for the solution of state problems. The retention of earmarking does not meet these standards.

As a final point, the undersigned should emphasize that the committee proposals are not wholly free from progress. While we object to the retention of earmarking we believe that if it is to be retained, the language of the committee proposals represents a significant improvement over the language of the present constitution. Accordingly, if the amendments recommended by the undersigned are not adopted, we would strongly urge the support of the committee proposals.

**CHAIRMAN MARTIN:** Mr. Brake.

**MR. BRAKE:** Mr. Chairman, ladies and gentlemen of the committee, I think there is no one on the finance and taxation committee who doesn't believe that the constitutional tagging of major sources of state revenue for specific purposes is not the best way to run a government. Certainly that has been my thinking. When this question of tagging the sales tax came on in 1946, I campaigned against it from one end of the state

to the other. I had charts and literature, made speeches everywhere I got a chance, but the people said I was wrong, that that was the way they wanted to do it, and they have reaffirmed their position in that connection as recently as 1960. I pointed out to you on Friday that it is not costing us anything as far as the big bite for the schools is concerned. The majority of our committee is not willing to tell the 8 million people, almost, who are our bosses that they are wrong in their method of financing.

Now, we know this is controversial. We know there will be a lot of amendments. I would ask one thing in this connection: there is a minority report which has just been passed to you having to do with those words about the 1946 base. The explanation of that, the comment upon it, is not yet available to you. I trust that we will deal with amendments to other parts, if you have amendments, and discussion of other points, if you have such discussion, pending the receipt of those comments. Delay that part of it as much as we can.

Now, for a detailed discussion of what we have tried to do in connection with this proposal, I call upon Mr. Staiger.

**CHAIRMAN MARTIN:** Mr. Staiger.

**MR. STAIGER:** I attempted to point out a few minutes ago that each one of these sections, to me anyway, has to be analyzed separately to see what are the good points, if any, or the bad points, and that they cannot be taken as a whole one way or the other. Now, with this section, which is section 23 of the present article X of the constitution, I would like to analyze what the changes are, basically, that the committee has made. Really, it is divided into 2 types of so called earmarking.

You first have the  $\frac{1}{2}$  cent of the total of 4 cents as it now stands,  $\frac{1}{2}$  cent that goes back to cities, townships and villages. This is distributed, under the present constitution, on a population basis that is outlined in detail in the present constitution. The first change the committee made was as to the  $\frac{1}{2}$  cent, to just say that it shall go back to these local units of government on a population basis. I think this whole section is a good example of what you get into when you try to write tax legislation by amendment to the constitution. We have an awful lot of detail in this section. Even if you agree that we should have the earmarking, this detail has no place in the constitution. Just going through it, you see that we spell out what census shall be used in the old constitution, and even go into the basis on which you shall count the wards or persons in institutions, on a 50 per cent computation. All of this the committee believes can be left to the legislature, and this being so, we have provided that it simply shall be returned to the cities, villages and townships on a population basis as provided by law. That is the first change.

Now, the second change has to do with removal of the 1946 base. There is a minority report which you just received, filed by Messrs. Austin, Binkowski, Ostrow, Pellow, Stopczynski, Walker and Young, on which the comments are not available as yet, so it is my understanding that we will pass over the question of the '46 base as far as their minority report is concerned until those comments are in. I don't know what the procedure is going to be on that. Mr. Austin, do you have something you want to say at this time on that?

**CHAIRMAN MARTIN:** Mr. Austin.

**MR. AUSTIN:** Mr. Chairman, Mr. Staiger, my understanding is that those comments will be delivered to you sometime during the session, and as soon as they are available, we will be ready to discuss our amendment.

**MR. STAIGER:** I will keep going, then, until somebody stops me. (laughter) The second change—that is, on the 1946 base for the  $\frac{1}{2}$  cent going back to local units of government—now, what the constitution did in effect was to freeze the sales tax. Not only the  $\frac{1}{2}$  cent must go to local units of government, but also that this must be done on the 1946 base. There is an attorney general's opinion, ruling that while the distribution must be made on the basis of the 1946 base, it would be possible for the legislature to exempt certain items that were included in that base, just so they didn't change the amount of revenue going back to the local units of government. In other words, they could exempt, say, food from the base, but in doing so, the net revenue could not be reduced going back to the local



units of government. All he is saying is the distribution must be made on that basis, but the tax must not be levied. This is an attorney general's opinion. I have noticed recently there have been some questions raised as to that interpretation by the members of the legislature. That is the  $\frac{1}{2}$  cent for local units of government.

The second part of section 23 deals with schools. There again it says that 2 cents shall be returned for schools. Under that section, again they tie in the 1946 base. It shall be returned on the basis of the 1946 base. The committee removed that provision, and they also removed the language in which it states that this, as to schools, shall be deposited in a special school aid fund, said fund to be distinct from the state general fund. We removed that language. This in effect puts it on the same basis as your highway earmarking, which does not state and spell out that this has to be physically segregated in a special fund. It also puts it on the same basis as your  $\frac{1}{2}$  cent for local government, which does not contain that language. We removed that language so that while we are earmarking, we are not spelling out that it has to be physically segregated, at least by the constitution.

The third change that the committee made you will find in your report down in lines 14 through 19 on page 2. This dealt with the school employees' retirement systems, and stated that not less than 5 per cent nor more than  $7\frac{1}{2}$  per cent of the salaries of the school district employees participating shall be returned for retirement purposes. We removed that language, but kept in the provision that part of this 2 cents could be used for school employees' retirement purposes, as provided by law. This, again, was an attempt to take some of the disadvantages, we felt, out of the section; to give some flexibility to the legislature, but to allow them to use a part of the 2 cents for that purpose if they so wish.

The final change that we made was with regard to the 4 cent maximum sales tax that can be levied, and there you had a problem under the old language, which reads, "At no time shall the legislature levy a sales tax of more than 4 per cent". This has been interpreted so that in your different levels of sales, the amount collected on a sale could not be more than 4 cents, charged to the purchaser. It created some inequities, especially among small retail merchants who had a large volume of small sales, and in their mix, as they call it, if they had a small number of sales, in order to collect not more than 4 per cent on any one sale, they were finding that they were collecting less from the purchaser than they actually had to pay to the state. They were losing money on the sales tax. It was never the intent, I am sure, of the drafters of the sales tax language to cause this problem for small merchants, and this language has been changed so it is clear as it now reads—so that it is a maximum of 4 per cent on the gross taxable sales of tangible personal property. This corrects it so that the small sales merchant will be able to reimburse himself for the tax that he must pay to the state.

Those, basically, are the changes that we made.

I think in analyzing the whole question, particularly as to the 2 cents for schools, it should be pointed out that this section, while possibly not doing a great deal of harm—because the basic harm that it could do is if the legislature wanted to remove the sales tax and couldn't remove it—it wasn't too realistic that the state would ever be without a sales tax. On the other side, it doesn't do an awful lot of good, because for the last 4 years the legislature has had to appropriate a considerable amount over and above the 2 cents for schools, as Mr. Brake pointed out the other day. In the '59-'60 fiscal year this appropriation was over \$21 million, and for '60-'61, it was over \$36 million.

So there is no question on the other side that the 2 cents is ever going to be too much for schools. This would be one harm that could come from earmarking. The legislature has had to appropriate over this. The testimony was that never in the foreseeable future, certainly in the next 50 years, will the 2 cents of sales tax ever be enough for schools under the present population increase that we are having in the state, so for that purpose, it is only—as the school people say—something that they will always have as a floor to fall back on.

We were willing to leave it in at the 2 cents, but felt that in doing so, we should also take out some of the inflexibility on it which is caused by the 1946 base being tied in there so that they can't provide different exemptions, and also as far as the requirement where it was spelled out 5 to  $7\frac{1}{2}$  per cent shall be returned for retirement. We've left the earmarking as far as schools are concerned, but we have made it more flexible for the legislature. Are there any questions at this time?

CHAIRMAN MARTIN: Mr. Hanna.

MR. W. F. HANNA: I would like to address a question to Mr. Staiger, if I may. Mr. Staiger, why do you provide in the sales tax that it will be allocated back to local school districts by law, and then you go to your report on the primary interest school fund and you say that should be allocated back by law? Why do you not merely give this 2 cents over to the primary school fund and have one allocation formula and statute?

The second question is why do you not say in this that the 2 cents shall be in full payment of the state's obligation for primary and secondary education?

CHAIRMAN MARTIN: Mr. Staiger.

MR. STAIGER: Well, with regard to the first question, I think that there is some drafting that can be done, probably, by style and drafting on this section. This was an extremely close question in our committee. I think both sides felt that they were willing to leave it just as it was without raising the question again. Every time we raised it, we got a different vote on some of these issues, so that we didn't actually get into trying to rewrite the whole language of that section. We knocked out what we thought were some of the substantive things that needed to be changed, but didn't try to spend too much time on some of the other language. Now, what was the second question, Mr. Hanna? That you wanted to make this a limit, a maximum?

MR. W. F. HANNA: Yes.

MR. STAIGER: I think, clearly, if it doesn't give enough money for schools under the present system and it was going to be a maximum, it would be totally unsatisfactory to the schools. It would also put a great deal more inflexibility into the provision, which we are trying to get away from.

CHAIRMAN MARTIN: Mr. Iverson.

MR. IVERSON: Mr. Chairman, I would like to ask Mr. Staiger a question. In the first place, the language of the original constitutional provision is not too plain, although it's been interpreted to some degree by the supreme court. Did your committee give any consideration, in changing the provisions in line 20 and adding lines 21, 22 and 23 on page 2, to the question of whether this would in effect permit the legislature to levy a different type of sales tax in addition to this one?

MR. STAIGER: Our intent there was clearly to eliminate the inequities caused. I am not sure how, under these words, you can levy any—you mean a tax on the merchants rather than on the retail sales? You think that is the question that might come up under it?

MR. IVERSON: The present tax is a tax on retailers.

MR. STAIGER: Yes.

MR. IVERSON: And the present provision in the constitution says, "At no time shall the legislature levy a sales tax of more than 4 per cent." Now, so far as I am concerned, I am in favor of the new added language. I believe that some merchants should be granted some consideration where the sales tax presently costs them a considerable amount of money. But I am wondering whether or not in putting that language in and eliminating the previous line, you are not thereby opening the door to the levy of additional taxes on the consumer, additional sales taxes.

MR. STAIGER: I don't think so. It certainly wasn't our intent when we checked this language over, and I think that it is clear from our comments that we are only changing it to meet this question of the small, high volume, low sale type of retailer who was actually not able to collect, under the present limitations, as much as he had to pay to the state. That was the situation we were trying to get at, and I think it is clear from our comments that that is all we were intending to change.

CHAIRMAN MARTIN: Judge Leibrand.

MR. LEIBRAND: Mr. Chairman, may I direct a question to Mr. Staiger? I refer now to line 22, on page 2 of Committee Proposal 39, which recites that the sales tax is on retailers. I am wondering if the committee considered what effect that recital that it is on retailers might have, if any, on the right of the ultimate purchaser presently to get a deduction under federal income taxes. The general federal rule is that a tax is deductible only by the party who is primarily liable. Had you considered that, Mr. Staiger?

MR. STAIGER: No, we didn't go into that question. Certainly as implemented by the statute, though, it is clear that he has the right and shall collect this or reimburse himself from the customer. We didn't research the federal deduction question on that.

CHAIRMAN MARTIN: Mr. Van Dusen.

MR. VAN DUSEN: Mr. Chairman, perhaps Mr. Austin was going to cover this. I was simply going to say that Judge Leibrand's question is answered by the internal revenue code and the regulations issued thereunder, which makes it clear that the sales tax deduction is available even though the tax is imposed upon the retailer, so that this would make no change in the ability of a Michigan taxpayer, paying the sales tax as a consumer, to deduct it for federal income tax purposes. That is covered in the internal revenue code and the regulations thereunder.

CHAIRMAN MARTIN: Mr. Austin.

MR. AUSTIN: Mr. Chairman, I would like to add some additional information on the same point, and that is that the present sales tax law as it was originally passed provides for a tax on the retailer, and we have merely conformed the constitution to the act as it was originally passed. Now, the act also gives the retailer the right to collect the tax from the consumer, and because the consumer is required to pay it, the federal government does allow it as a deduction in arriving at the federal income tax liability.

CHAIRMAN MARTIN: Mr. Danhof.

MR. DANHOF: Mr. Chairman, Mr. Staiger, your statement of a few moments ago as related to the 2 cents diverted to the schools indicated that, in the opinion of the committee, this would provide at least a floor or a minimum amount for educational purposes. Did the committee go into the proposition, if this be true, as to what percentage or proportion of the cost of educating a child should be borne by the local government and by the state? That is, should it be 40 per cent or 30 per cent or 75 per cent?

And if you did reach a percentage, then this necessarily might vary from year to year, and as distinguished from what we have for the highway fund, where at least the legislature has the opportunity to raise or lower the tax as the need may be required, you have frozen a 4 per cent levy. Is 2 per cent the determination of your committee as a minimum requirement that the state should put forth in educating the children? Or if it should be more, maybe we should raise it to 3 cents or maybe we should lower it to 1½ cents. I would like to know if the committee considered this in any detail.

MR. STAIGER: First, I should make it clear that it was just those that supported keeping the 2 cents in that felt that it was a floor; that is, primarily the education people who testified before us felt that while it did not give enough for education at the state level at this time, that it at least provided a floor that the legislature could not go below. We made no determination directly on what percentage the state should be providing for local schools or for schools, but I think indirectly by saying 2 per cent, we are saying that they shouldn't go below this amount.

CHAIRMAN MARTIN: Mr. Brake.

MR. BRAKE: Mr. Danhof, we didn't make any such determination and we shouldn't make any such determination. The sales tax provision is inflexible enough without our adding anything to it. The question that you raise is certainly a question for the legislature.

CHAIRMAN MARTIN: The question is on the committee proposal. Mr. Austin.

MR. AUSTIN: Mr. Chairman, I would at this time like to

propose an amendment in the form of a minority report. I think that every delegate now has a copy of the minority proposal and also the comment. There is an error in the comment, which I will comment on later. Is it appropriate for the secretary to read the amendment at this time, or shall I proceed?

CHAIRMAN MARTIN: The secretary will read the amendment.

SECRETARY CHASE: Pursuant to the minority report of Messrs. Austin, Binkowski, Ostrow, Pellow, Stopczynski, Walker and Young,

Mr. Austin offers the following amendment — as a substitute, is it, Mr. Austin?

MR. AUSTIN: The way the drafting staff has drawn this, it is a little confusing. All that we are seeking to do is to reinsert the language "on the 1946 statutory base" in the 2 places where it was deleted, and I don't think it is necessary to read the whole proposal as it is written here, but merely to refer to the committee proposal and to indicate the changes that we are suggesting. So my personal view is we ought to refer back to the committee proposal and indicate where the changes are to be made. On page 2 of Committee Proposal 39, on line 3, the words "on the 1946 statutory base (not rate)" have been deleted. The minority report would reinsert those words.

CHAIRMAN MARTIN: And on page 1 do you also reinsert?

MR. AUSTIN: On the very last line, after the word "property" would be inserted the same words, "on the 1946 statutory base (not rate)". Those are the 2 changes.

SECRETARY CHASE: Mr. Austin, then, on behalf of the minority, offers the following amendments:

1. Amend page 1, line 24, after "property" by inserting "on the 1946 statutory base (not rate)".

2. Amend page 2, line 3, after "property" by reinserting "on the 1946 statutory base (not rate)".

CHAIRMAN MARTIN: Mr. Austin.

MR. AUSTIN: I would like to refer you now to the material which has just been passed out, the comment on the minority report. That is, on line 2, it refers to the committee on declaration of rights, suffrage and elections. Actually it is the committee on finance and taxation.

[Correction made. See above, page 786.]

And we submit these comments, and I think that it might be appropriate for me to read, since you have just got this material.

[Paragraphs 1 and 2 of the supporting reasons were read by Mr. Austin. For text, see above, page 786.]

I think this is rather obvious. The purpose of that '46 base language was to make sure that the school districts and the local governments got, in effect, what they would have received under the '46 base even if items were subsequently removed from the sales tax base.

[Paragraph 3 to the table of the supporting reasons was read by Mr. Austin. For text, see above, page 786.]

Now, this table has 2 columns of figures. The first column shows what would happen under the present constitution and under the amendment as proposed by the minority. The second column indicates what would happen under the committee proposal.

Let's consider first the estimated sales tax revenue for the coming fiscal year or the present fiscal year, approximately \$440 million. It would be the same in either case. The loss of revenue through exemption of food, and if we use the \$90 million figure, we will get estimated revenue, assuming food and drugs exempt, of \$350 million.

Now, what will be the distribution to the local units of government under the 2 proposals? Under the minority report or proposal, and also under the present constitution, it would be necessary to continue to distribute to these local units of government the same amount they would have received had



nothing been removed from the sales tax base. In other words, the computation would still have to be made upon the 1946 base, or \$55 million. Under the committee proposal, this would be reduced to \$43,750,000.

Now we come to the schools. The amount to be distributed to the schools under the '46 base arrangement would be \$220 million and under the new base, or under a base which would be reduced by the elimination of food and drugs from the base, it would be \$175 million. As you can see, there is quite a difference.

Even if the state general fund recovered the lost sales tax revenue from another source—let's assume for a moment that in removing the food and drugs from the base, that the state would at the same time enact a new type of tax such as an income tax. The general fund would certainly recover the money through the new taxation, but there would still be no requirement that the same money be sent back to the schools and the local units of government.

[The remainder of the supporting reasons, following the table, was read by Mr. Austin. For text, see above, page 787.]

Mr. Chairman, we move that the minority amendments be adopted.

CHAIRMAN MARTIN: Mr. Van Dusen.

MR. VANDUSEN: Mr. Chairman and members of the committee, my purpose is simply to explain to you in a little more detail what the amendment does and my reasons for opposing it. I think that it should be quite clear that the purpose of the committee proposal is to give the legislature greater flexibility in solving Michigan's tax problems, greater flexibility than it can possibly enjoy if this constitution is to contain such legislative detail as the incorporation by reference of the entire sales tax as it existed in 1946.

Now, the minority report suggests in some manner that the citizens of this state can have their cake and eat it too. I think it should be clear that it is a practical impossibility to retain the language requiring the imposition of the tax on the 1946 base (not rate) and to expect that the legislature would under any circumstances exempt major segments of that base from the imposition of the tax.

I don't challenge the attorney general's opinion to which Mr. Austin referred. I simply put it to you that the legislature, confronted with the necessity for appropriating money based upon tax collection on the 1946 base, has no practical choice but to continue the 1946 base. How is the legislature going to determine how much money would have been produced by a sales tax on the 1946 base unless the tax is continued on that base? There isn't any way to determine, for example, what sales tax would have been produced by the imposition of a tax on food unless you continue the tax on food.

Therefore, I think it should be very clear to each of the delegates that if you vote for the Austin amendment, what you are doing is locking into the constitution a sales tax on food and a sales tax on drugs for the foreseeable future. There is simply no way in which you can have your cake and eat it too. If you want to give the legislature the opportunity to determine on what items the sales tax should be imposed, then you will support the committee. If you want to freeze into the constitution the present items subject to the sales tax—and that includes food and drugs—you will vote for the minority report.

I think the legislature ought to have the flexibility to remove food from the tax base if it chooses to do so in the future. For that reason, I strongly urge that you vote no on this amendment.

CHAIRMAN MARTIN: Mr. Van Dusen, may the Chair inquire, just clarifying his own understanding: when you refer to the statutory base, are you referring to the kinds of things on which it is levied, or are you referring to an amount which was the amount of sales tax collected in 1946? I am not clear on that. Perhaps others are not.

MR. VANDUSEN: Mr. Austin may wish to elaborate on this, but it is the opinion, I believe, of the committee that the words "statutory base" refer to the subjects of taxation:

food, drugs, automobiles, any other tangible personal property sold at retail on which the tax is levied and computed.

CHAIRMAN MARTIN: Mr. Austin.

MR. AUSTIN: I think he has made it rather clear. It is the subjects of taxation. When we refer to "base" that is what is meant.

CHAIRMAN MARTIN: I see. The question is on the minority—

MR. AUSTIN: Mr. Chairman, may I respond to one or two comments made by Mr. Van Dusen?

CHAIRMAN MARTIN: Mr. Austin.

MR. AUSTIN: Mr. Van Dusen has indicated that food and drugs are now locked into the base. I don't believe that is the case, and I am sure that you will agree with me that the legislature now has the authority to remove any item from the base; not only food and drugs but it can make other exemptions from the present base.

What would happen, of course, is that if these items were removed from the base, the legislature would have to find the moneys to be distributed to the schools and local governments from another source. But this provision does not lock anything into the sales tax base.

And one other point that should be made is: remember that this is the way the people put it into the constitution. This is the way they voted it. They voted for that 1946 base because they wanted it as a minimum base.

CHAIRMAN MARTIN: Mr. Binkowski.

MR. BINKOWSKI: Mr. Chairman, ladies and gentlemen of the committee, thank you, Mr. Austin, for clarifying that point with respect to so called locking in the food and drug tax. I certainly do not believe that this is the case as stated by Mr. Van Dusen.

I think that the basic issue before the committee is whether we want to earmark funds for schools or not. It is just that. Now, there are many here who believe that this type of earmarking should not be continued, and if so, they will gladly go along voting against the minority amendment, because it does eliminate a substantial portion of the present amount of sales tax for schools and for distribution to school districts.

Now, there is no question that if you don't want earmarking, and if you want more flexibility within the legislature, then let's go all the way and eliminate this provision entirely. Let's not go half way. And I submit that the committee report without the 1946 statutory base just goes half way toward the elimination of earmarking of funds for schools and for the local districts.

I believe that is the issue. You either want to continue your dedicated funds for schools or you don't. I don't think we should go half way and again mislead the people.

CHAIRMAN MARTIN: Mr. Brake.

MR. BRAKE: Mr. Chairman, either Mr. Austin and Mr. Binkowski missed the point of Mr. Van Dusen's argument or else I did. As I understood it, Mr. Van Dusen was not arguing that legally food and drugs, for instance, could not be taken out from under the sales tax. What he said, as I understood him, was that the economic pressure, the need for money would make it very certain that they would not be reducing the base of the sales tax. So frequently we worry ourselves about something that possibly could happen but just never will.

CHAIRMAN MARTIN: Mr. Van Dusen.

MR. VANDUSEN: Mr. Chairman, I would only add to what Mr. Brake has just said that not only the economic pressure but the administrative complexity of trying to calculate an artificial base upon which no tax is imposed make it a practical impossibility that if this amendment is adopted, food will ever be exempted from the sales tax.

Legally, Mr. Austin and Mr. Binkowski are quite right. Practically, they are quite wrong.

CHAIRMAN MARTIN: Mr. Howes.

MR. HOWES: I rise to oppose this amendment. If the words "1946 statutory base" were not removed from this section, the state would not, if enough of the articles now under the sales tax were removed, be able to collect enough money

on a 4 cent sales tax to pay the amount required to be paid to the schools alone.

The words "1946 statutory base" mean that all articles under the sales tax at that time shall be used in considering the 2 cents to be paid to the schools. If we leave these words in, and if what Governor Swainson is asking for at the present time were to come to pass—that is, that food and some other items were removed from the sales tax—the state would be paying to the schools a much larger portion of the money collected under the 4 cent sales tax than it is at the present time.

CHAIRMAN MARTIN: Mr. Bentley.

MR. BENTLEY: Mr. Chairman, I offer an amendment to the Austin amendment which is on the secretary's desk.

CHAIRMAN MARTIN: The secretary will read the amendment.

SECRETARY CHASE: Mr. Bentley, on behalf of the committee on education, offers the following amendments to the amendments:

1. Amend page 2, line 3, after "property" by inserting "on the 1946 statutory base (not rate)".

2. Amend page 2, line 4, after "shall be" by inserting "deposited in a special school aid fund and be".

3. Amend page 2, line 7, after "law.", by inserting "Said school aid fund shall be separate and distinct from the state general fund."

CHAIRMAN MARTIN: Mr. Bentley.

MR. BENTLEY: Mr. Chairman, the amendments which I offer also include the second portion of the Austin amendment, and that is to reinsert the words "on the 1946 statutory base (not rate)" which is why I offered it as an amendment to his amendment rather than as a separate amendment. We do not refer in this particular amendment to the question of "the 1946 statutory base (not rate)" insofar as the ½ cent on the sales tax going to local government is concerned.

Mr. Chairman, I should explain that after Committee Proposal 39 was referred by the committee on finance and taxation to the committee on education, it was the vote within the education committee—a vote of 16 to 1—that the language, as presently in the constitution, of the first paragraph on page 2 of the committee proposal should be retained intact. The amendment which I have offered on behalf of the committee on education would reinsert the deletions in that particular paragraph which have been made by the committee on finance and taxation.

I might add that the reason, within the committee on education, for reinserting the references to the special school aid fund was the strong belief of the overwhelming majority of the committee on education that that language should be retained in the constitution. And I might add that nearly 2 months ago, when we submitted exclusion reports on sections 11, 12 and 13 of the education article—these reports, I believe, were, incidentally, referred to the committee on finance and taxation—we suggested at that time that all moneys earmarked for schools in the constitution which would be continued in the new constitution should be placed in a special school fund. Therefore, I feel that the committee on education is being consistent in recommending that references to this special school aid fund be replaced.

Other than that we do support the minority report insofar as the replacement of "the 1946 statutory base (not rate)" is concerned. I am speaking for myself, and I would assume the majority of the members of the committee on education likewise subscribe wholeheartedly to the supporting reasons advanced by the minority in this connection.

CHAIRMAN MARTIN: Mr. Staiger.

MR. STAIGER: Let me point out again, just so we have this in its proper perspective, that what we are talking about is 2 cents for schools which does not now and never will in the future be, under the testimony we had, enough money for schools. We are talking about a minimum which is not a satisfactory minimum. From that standpoint, right now the schools had to rely on the legislature to the amount of about \$86 million for the '60-'61 budget. They had to. They

say that the 2 cent school tax does not now and never will in the future again give enough money for schools.

I think it is safe to assume in this state that we are heading for a complete tax revision and it is going to be rather wide in scope. To do that, the committee felt that the least we could do is to clear away some of the roadblocks in the way of the legislature in this area so that they could have a legitimate tax revision.

Schools now rely on the legislature. By putting this language back in, particularly as to the '46 base, you are just freezing something in there that is not now giving enough money for schools. Therefore, we oppose the Austin amendment.

With regard to the amendment by Mr. Bentley of setting it aside in a separate and distinct fund, the highway fund does not have this. They have been able to satisfactorily earmark their money. The local government money does not have this special provision to segregate it physically into a separate fund, and there is no reason to put this in as far as the schools are concerned, as far as the majority of the committee is concerned.

CHAIRMAN MARTIN: Mr. Woolfenden.

MR. WOOLFENDEN: Mr. Chairman, I would like to ask Mr. Austin a question. How would it be possible to administratively determine what the '46 base would be if, in fact, food and drugs and perhaps other items are eliminated from the sales tax? How do you conceive it possible to know what it would be with those back in if there is no report being made on them?

MR. AUSTIN: Mr. Chairman, Mr. Woolfenden, it is my feeling that this would be done by statistical analysis. Just as it is possible now to determine how much revenue we lost through removal of food and drugs from the base, it would be possible then to determine what the total tax revenue would be with those items retained in the base.

MR. WOOLFENDEN: But, Mr. Austin, it is easy to make a determination of how much will be lost if they are removed because they are presently being reported, but once removed, then there is no sales tax report covering them, and it would be just conjecture as to what it amounted to, would it not?

MR. AUSTIN: I am not disputing your statement as to conjecture. It would be what we would consider to be a statistical determination. Now, whether it is conjecture or whether it is the best available information, I am not sure, but remember that this is for determination of how much is to be distributed under the sales tax amendment; that is, how much is to be distributed to the local governments. It does not affect the total revenue in any way, only the amount that is actually being distributed to the local units of government, and if the amount is not accurately determined, I don't believe any great harm would be done.

MR. WOOLFENDEN: Who would make the determination?

MR. AUSTIN: I would assume that either the legislature would have that determination made or the department of administration. As it is now, the state controller makes these estimates from time to time.

Mr. Chairman, I would like to suggest that the amendment made by Mr. Bentley be considered separately from the amendment of the minority, for the simple reason that it is different subject matter and I am not too sure that it would be appropriate to vote on both of these at the same time. This is not to say that I have any serious objection to his amendments.

CHAIRMAN MARTIN: The Chair will rule the question is first on the minority amendment and then on the Bentley amendment in order to avoid confusion.

Mr. Iverson.

MR. IVERSON: I was a little confused, Mr. Chairman. I wondered if Mr. Bentley meant to amend the original committee report or the minority report.

CHAIRMAN MARTIN: I think he offered his amendment because the education committee had in mind that it wanted to include the '46 statutory base in the same way that the minority amendment did, but I wonder, Mr. Bentley, if for

any reason your amendment can't be offered satisfactorily after the determination of this minority amendment.

MR. BENTLEY: Mr. Chairman, the only reason for my offering it as an amendment to the amendment by Mr. Austin was that the first part of our amendment does cover the same portion as the second portion of the Austin amendment; that is, the restoration of the 1946 statutory base, referring to the sales tax diversion for the schools. We do not mention the question of the 1946 statutory base as far as local government is concerned.

Insofar as I personally am concerned, the Chair's ruling is perfectly satisfactory. We can dispose of the Austin amendment. But since we did have the overlapping in this one portion, I felt that it might be appropriate to offer it as an amendment to his amendment. If the Chair rules that the vote will come first on his amendment, that is perfectly satisfactory to me.

CHAIRMAN MARTIN: Mr. Faxon.

MR. FAXON: Mr. Chairman, members of the committee, I rise to support the minority report here. As a member of the committee on education, we have been hearing from many educators for several months as to what they would like to see in the constitution with regard to a minimum basis of support for the education of the state. I heard reference a little over an hour ago when dealing with the previous proposal, Committee Proposal 38, that we run into a stone wall when we attempt to tackle highways. Well, I think when we attempt to weaken the base of support for education, we run into a human wall of many, many people throughout the state who are vitally and deeply concerned with guaranteeing a minimum level of support.

Now, I agree with Mr. Staiger that the 2 cents doesn't provide that, but at least, as far as the educators are concerned, it provides a floor, a floor that isn't a sinking floor, and I refer to this majority proposal as a quicksand, because what you are doing is making it possible for the base to be changed, and therefore you are eating away at least at this minimum floor.

As a member of the committee on education, I think the sense of the committee was that we should do as little as we could to tamper with this very vital question of support for education, and so I wish to urge the members of the committee here to support the minority report.

CHAIRMAN MARTIN: Mr. Leslie Richards.

MR. L. W. RICHARDS: Mr. Chairman, I want to rise in support of the Bentley amendment. Due to the fact you have ruled otherwise at the present time, I would refrain from remarks.

But I did feel while I sat here, if it was in order, I would like to make a motion to rise and let's have a bite to eat at this time.

CHAIRMAN MARTIN: The motion is that the committee do now rise. I wonder, Mr. Richards, if we could ask the chairman of the committee for his comment.

MR. BRAKE: I was hoping, Mr. Chairman, that we could vote on this one minority report and then I had intended to make the motion that Mr. Richards has now made.

MR. L. W. RICHARDS: I will withdraw then on the strength of that, Mr. Chairman.

CHAIRMAN MARTIN: Thank you, Mr. Richards.

Mr. Nord, did you want to be heard on the minority amendments?

MR. NORD: I do, Mr. Chairman, but I believe Mr. Bill Hanna is before me, if I am not mistaken. I would like to speak as soon as he is finished, if I may.

CHAIRMAN MARTIN: Mr. Hanna.

MR. W. F. HANNA: Mr. Chairman, I would like to address a couple of questions to Mr. Austin concerning his amendments. Mr. Austin, in a general overhaul of the financial taxation picture of Michigan, if the general overhaul provided for a local income or payroll tax or a local income or payroll tax on a county level for the support of primary and secondary education, would your amendments not require the legislature to appropriate money equal to the sales tax base, and require an overall state income tax

rather than local option to county school districts as such, or cities and townships in the line of a payroll tax?

MR. AUSTIN: Mr. Chairman, I am not sure that I know exactly how the passing or the enactment of local supplements would affect what we are proposing here. What we are proposing here is exactly what is in the constitution now, and if local units of government or school districts are in need of additional revenue which would be supplied through local supplements, then I don't see how that should affect the amount to be distributed to them under the sales tax diversion amendment.

MR. W. F. HANNA: Let me be specific, Mr. Austin. Supposing that the legislature removed from the sales tax base food and drugs, and recognizing that cities, townships and villages would thereby lose revenues, they would in the same act provide that cities, townships and villages could levy a payroll tax to make up the shortage by the exemption of food and drugs from the sales tax. Your amendments would require that the legislature continue to appropriate that lost revenue, would they not?

MR. AUSTIN: That is correct. The legislature would still be required to remit to local units of government as well as to the school districts 2 cents of the sales tax on the '46 base.

MR. W. F. HANNA: Would your amendments not restrict a general overhaul of the tax structure of Michigan by the legislature because of the compulsory appropriation factor that you have here?

MR. AUSTIN: This is what I don't see.

CHAIRMAN MARTIN: Mr. Nord.

MR. NORD: Mr. Chairman, I feel somewhat akin to the feeling that has been expressed by nonlawyers when they hear lawyers talk. Now we are hearing finance and taxation people, and I am quite puzzled myself. We have heard quite a few contradictory remarks from various people. In fact, we have heard remarks on the same side of the question which contradict each other, and I believe that we ought to get some clarification of that. We have had one group of remarks from people which are to the effect, on the one side, that if we were to adopt the minority report, the legislature, in case foods and drugs were exempted from the base, would not have enough money to provide the funds that are required to provide for schools, and therefore presumably they would not provide them. They would not provide them. That was one argument that was made, and that was summarized by saying you cannot have your cake and eat it. The legislature wouldn't provide it because they wouldn't have it. That was Mr. Van Dusen's point. As a practical matter they would not have it. That means that the schools would lose.

We also heard a remark from another gentleman—I have forgotten who it was—which said, in support of the same general conclusion, that the reverse would be true; that there is no need to worry; that the schools will certainly have enough money because the money for the schools doesn't come out of the earmarked funds anyway; it comes out of the appropriation of the legislature. And they always have done it in the past; therefore, they will do it in the future.

Both of those arguments, which run exactly contrary to each other, were in support of the proposition that, as a practical matter, you cannot leave this 1946 base in the constitution, one, because the legislature will not provide money for schools; and the other one because it would provide money for schools. I submit that at least one of those two must be wrong, and quite possibly both.

The other argument that was made in opposition to the minority report, which also seems to me to be a rather peculiar argument, is this: that, as a practical matter, there is just no way you could do this; that if you wanted to leave the 1946 base in there, you couldn't do it. You might try, but you couldn't succeed in doing it. Now, that is one of those arguments that my children are always making to me. "I wish I could do it, daddy, but I can't." Somehow or other, when you don't wish to do something, it seems you cannot do it.

Well, what was suggested by Mr. Van Dusen was this: he says, "I don't know how we would know how much money would have come in from the tax on the sale of food and drugs, because we are not taxing it. Therefore, we don't know. Therefore, we are stuck." Not being a finance and taxation expert, I don't feel too stuck. For example, the legislature is not powerless to solve this problem. If the legislature wanted to exempt food and drugs or any other items, it could do so in this way, just as one example: it could require that those people that sell food and drugs report the amount of the sales of food and drugs. It could do that if it wished to. Instead of paying the tax on the food and drugs, it could report that. There are a great many statistical surveys always being made in the state, and statistical surveys could be made on this basis. The legislature could approach it that way. If you know the amount of sales, you multiply by the percentage of the sales tax and you know what the tax would have been. If the legislature doesn't feel like doing that, it could provide other methods. It isn't necessary for us to present all of the solution. It could provide in the law when it exempts food and drugs a statistical measure to determine what the tax presumably would have been. Now, if it does that in a fair way, attempting to meet the requirement of the constitution, it will not be an unconstitutional statute and the statute will be effective and the tax base will be secure.

Therefore, let's not get mixed up on the theory that this thing simply cannot be done. Whether it is desirable to be done is one thing. But whether it can be done is an entirely different thing. It certainly can be done.

As to whether it is desirable to retain the 1946 base, my opinion is that it is desirable. This provision is a provision which would retain the security of earmarked funds for schools. My feeling is that the people in the schools and the parents of children insist on having the retention in its present form of the school fund earmarking. Now, if we want to do that, we can do so. We don't need to make any changes. I think that the minority report is sound and should be accepted.

CHAIRMAN MARTIN: Mr. Brake.

MR. BRAKE: Mr. Chairman, I move that the committee rise.

CHAIRMAN MARTIN: The motion is that the committee now rise. All those in favor signify by saying aye. Opposed? The committee will rise.

[Whereupon, the committee of the whole having risen, President Nisbet resumed the Chair.]

PRESIDENT NISBET: The convention will please come to order. Mr. Martin?

MR. MARTIN: Mr. President, the committee of the whole has had under consideration certain matters on which the secretary will now give a report.

SECRETARY CHASE: Mr. President, the committee of the whole has had under consideration **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; reports this proposal back with an amendment to change the designation of the public utilities commission to the public service commission; recommending that the amendment be agreed to and the proposal as thus amended do pass.

[The following is the amendment recommended by the committee of the whole:

1. Amend page 1, line 20, after "public" by striking out "utilities" and inserting "service".]

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

The amendment is adopted.

**Committee Proposal 38**, as amended, is referred to the committee on style and drafting.

*Following is Committee Proposal 38 as amended and referred to the committee on style and drafting:*

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 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 service commission by 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.

SECRETARY CHASE: The committee of the whole has also had under consideration **Committee Proposal 39**, A proposal with reference to the earmarking of sales tax revenues covering the subject matter of section 23 of article X of the 1908 constitution; and has come to no final resolution thereon. This completes the report of the committee of the whole, Mr. President.

PRESIDENT NISBET: The Chair recognizes Dr. Hannah.

MR. J. A. HANNAH: Mr. President, I move that the convention now recess until 8:00 o'clock this evening.

PRESIDENT NISBET: The question is on the motion of Dr. Hannah. Those in favor say aye. Opposed, no.

The motion prevails; we are recessed until 8:00 o'clock.

[Whereupon, at 6:00 o'clock p.m., the convention recessed; and, at 8:00 o'clock p.m., reconvened.]

The convention will please come to order.

SECRETARY CHASE: Mr. President, a quorum of the convention is present.

PRESIDENT NISBET: The Chair recognizes Mr. Madar.

MR. MADAR: Mr. President, I would like to rise to a point of special privilege. In reading the Detroit News Saturday I noted that Delegate Van Dusen made a remark from which the newspaper reporter seemed to infer that the Democrats were dragging their heels. This, I believe, was due to the fact we had some discussion as to whether this convention should start at 4:00 o'clock or 6:00 o'clock on Monday evenings. Now, as I understood it when I went to school, from 4:00 to 6:00 and then from 8:00 to about 10:00, or if you wish to make it to 12:00, would be 4 or 6 hours. If we started at 6:00 and went on until 10:00 or 12:00, it would still be 4 or 6 hours. Now, where we were dragging our heels I don't know, or where we might be dragging our heels I don't know, and I believe that I am speaking for the Democratic party as a whole because it was the Democratic party and the Democratic delegates whom Mr. Van Dusen was supposed to have claimed were dragging their heels. Well, anyway, the 6:00 o'clock amendment finally lost and the 4:00 o'clock amendment went through, and I wondered just who the people were who were dragging their heels, because as I looked at this board over here those people who seemed to change from 6:00 o'clock to 4:00 o'clock were not so much

Democrats as Republicans, because I happened to notice names such as Mr. DeVries, Mr. Romney, Mr. Rood, Mr. Rush and several others.

And I would just like to say this, Mr. President: that when anybody gets to making inferences, they better stop and think a little bit, because we can come back, and we won't make inferences; we'll tell the truth. (applause)

PRESIDENT NISBET: Mr. Romney.

MR. ROMNEY: Mr. President, I would just like to correct the gentleman's statement. I did not vote for 6:00 o'clock; I voted for 4:00 o'clock.

MR. MADAR: That's right. You did vote for 4:00 o'clock, but you weren't here until after 4:00. You were late again, Mr. Romney. (laughter)

MR. ROMNEY: I didn't quite get your point. My plane was late today and I got here as fast as I could. I was a few minutes late.

MR. MADAR: I was only driving an automobile, Mr. Romney. (laughter)

PRESIDENT NISBET: The Chair recognizes Mr. Martin.

MR. MARTIN: Mr. President, I move that the convention now resolve itself into committee of the whole for consideration of matters on general orders.

PRESIDENT NISBET: The question is on the motion of Mr. Martin. Those in favor say aye. Opposed, no.

The motion prevails.

[Whereupon, Mr. Martin assumed the Chair to preside as chairman of the committee of the whole.]

CHAIRMAN MARTIN: The committee will be in order. The secretary will read.

SECRETARY CHASE: When the committee rose this afternoon, there was under consideration **Committee Proposal 39**, A proposal with reference to the earmarking of sales tax revenues covering the subject matter of section 23 of article X of the 1908 constitution. Immediately pending were the 2 amendments offered by reason of the minority report, which 2 amendments were as follows:

[The amendments were again read by the secretary. For text, see above, page 790.]

CHAIRMAN MARTIN: The Chair will say that at the time we rose, he had the following names listed: Mr. Van Dusen, Mr. Stafseth, Mr. Downs, Mr. Goebel and Mr. Seyferth. We will proceed in that order, with any others who may wish to speak. Mr. Van Dusen.

MR. VAN DUSEN: Mr. Chairman, I think the only point I felt had not been made here that I wished to add was simply that the 1946 base is a limitation on the increase in items which might be subject to the sales tax returned to schools, as well as a limitation on decrease. All of the conversation has been to the effect that if you eliminate this language, the legislature might reduce the base. I think it's important to recognize that if you eliminate the language, the legislature might increase the base, so that this is a 2 edged sword.

CHAIRMAN MARTIN: Mr. Stafseth.

MR. STAFSETH: Mr. Chairman, there are a couple of points I would like to make. One is that actually I think the purpose of taking out the 1946 base—at least this is the thought of the committee, and I support the committee proposal—is to keep the thing flexible and not make it complicated. In other words, you make the computations very complicated, and you make it so that actually you encourage the legislature not to take off some items such as food and drugs, because if they did take it off, the schools and the cities and the municipalities would still get the same money, but the money that goes to the general fund would be reduced. So by leaving it in, it would make less money for the general government and then it would handicap the legislature.

The other thing, Mr. Faxon in his comments was concerned about the committee's attitude on the 2 cent diversion for

schools. The committee was very much in favor of the 2 cents for schools. It is just that they wanted to take out these extra legislative or statutory provisions that are within the constitutional amendment.

And thirdly, actually under the present gas and weight tax constitutional provision, the legislature tomorrow, if it saw fit—I don't think it would—could reduce the gas and weight tax to nothing. It could cut it out completely. So that in the gas and weight tax diversion, it has the right to raise it; it has the right to lower it. All we are doing is attempting to make it easier for the legislature to write a tax reform and not handicap it with statutory matter in a constitutional provision.

CHAIRMAN MARTIN: Mr. Downs.

MR. DOWNS: Mr. Chairman, in discussing the matter of financing our schools and cities, I am sure it will be very clear I am not speaking as a tax expert, but rather from the viewpoint of the concern of keeping a minimum standard or base of income into our cities and schools, and I therefore rise in favor of Mr. Austin's amendments, because I think this will provide—while it may not be adequate funds—a certain minimum base from which we can do our financing.

I am very concerned that if we remove these standards, then we may pit each city against the other, not for satisfactory services but to get lower services. I think this is particularly a problem in the hard core areas of our large cities. I am speaking not only of Detroit but our other industrial areas where we find the movements to the suburbs. While these problems cannot all be solved in the constitution, I, for one, feel it will be much more difficult to solve them if we take the presently assured revenues from our industrial areas and not be sure how to replace them. I think this provision will in fact facilitate tax reform rather than impede it, because I believe while most of us feel there should be major fiscal reform, that to get it done satisfactorily we need still to guarantee these minimums to the schools and cities, and this provision of the Austin amendments, as I understand it, will preserve those minimum sources of income and revenue, but still permit flexibility in shifting the sources of our tax revenue. Thank you.

CHAIRMAN MARTIN: Mr. Goebel.

MR. GOEBEL: Mr. Chairman, I have the feeling that perhaps we may decide this issue on the basis of fear of reduction of the number of items that will be subject to this base, and I submit to you that the record shows that in the 15 years that this amendment has been in force, the legislature has not done anything to remove from the base any subject that was taxable in 1946, so there are 15 years gone by where the legislature has not taken out of this legislation any items subject to the sales tax.

And further than that, while we have been discussing here—those that favor the minority report—the fact that there is a possibility that some items may be removed from the '46 base, I submit to you that there has been as much talk, if not more, on the matter of including other items that are not subject to the '46 base in this proposal, such as perhaps laundry, dry cleaning, services of doctors, lawyers and so on and so forth. I also think history indicates that when one tax is levied, it is pretty hard to get it off the books, that it is increased rather than decreased.

And I think, further, that the fact that the state legislature for the last 4 years, I believe, has contributed an amount of money over and above the 2 cents that goes to the school aid fund—as a matter of fact, last year I think a matter of around \$40 million, I'm careless with my figures—it seems to me that any fear that the legislature will not recognize its responsibilities to schools has been pretty well dissipated, because it has been demonstrated over this period of time that the 1946 base has not been adequate to take care of the school needs as determined by the legislature itself.

Therefore, I see little chance myself that any substantial change will be made by the legislature, and I believe that any possible disadvantage, as little as it might be, certainly does not offset the possibility that the legislature shall have more flexibility and, I believe, an opportunity to overhaul our tax



system. So I speak, as a member of the committee on finance and taxation, against the Austin amendments and for the committee proposal. Thank you.

CHAIRMAN MARTIN: Mr. Austin.

MR. AUSTIN: Mr. Chairman, we are concerned about maintaining a minimum base, as Mr. Downs has pointed out and I think he pointed it out very well. Now, as to the calculated risk on possible increases to the base, I should remind the delegates that the legislature has added items to the base since 1946, but it has very scrupulously added these to the use tax base. Instead of adding them to the sales tax, where the money would be distributed in the manner prescribed by section 23 of the constitution, these additions have been added as use tax base items, with the result that this additional money has been going into the general fund.

CHAIRMAN MARTIN: Mr. Seyferth.

MR. SEYFERTH: Mr. Chairman, fellow delegates, much has been said on the subject, and I will hold my remarks to the minimum. First of all, I rise to speak against the Austin amendments and in favor of the committee proposal. It seems that it boils down to a very simple Q.E.D. that we are providing in the committee proposal a freedom of action for the legislature, in the years to come, to fit the requirements of the particular interested units of government under the sales tax at the moment into the then responsible fiscal management of our state government, and if we bind them in a constitutional provision, the obvious is certainly upon us. And I again reiterate the support of the committee proposal and speak against the Austin amendments.

CHAIRMAN MARTIN: Mr. Hanna.

MR. W. F. HANNA: Mr. Chairman, Mr. Austin has literally made the argument that I wanted to make against the adoption of the minority amendment. He mentioned that any change in the tax base has been made by the use of the use tax, and if you read this language, you are clearly flying in the face of the governor's proposed tax reform, any tax reform advocated by any civic organization that would remove food and drugs from the sales tax, because this says that you freeze the base as it existed in the statute of 1946. The item can neither be changed, added to nor detracted from. This is why the legislature has used the vehicle of the use tax to enlarge those items that are subject to the sales tax.

And if we are to have an income tax in addition to a sales tax, in all fairness to the people who are on limited incomes, who have a limited amount of resources saved and available to sell, then it certainly behooves us not to freeze into this tax structure the taxation of food and drugs, as would be done under the minority amendments.

CHAIRMAN MARTIN: Mr. Page.

MR. PAGE: Mr. Chairman, members of the committee, I rise in support of the Austin amendments, and I wouldn't attempt to duplicate the eloquent oratory that has taken place in the past hour or hour and a quarter. I think it is rather interesting, however, to look back and see what the popular support over the years has been for this language maintaining the 1946 base (not rate). The original sales tax diversion in which the language first appeared was adopted by a vote of 864,000 to 584,000. A year or two later the legislature decided that the people didn't know what they had adopted, so by joint resolution they proposed a repeal of the sales tax diversion which in 1948 drew 343,000 yes votes and 1,446,000 no votes. And then again in 1954 when the 2 cents was set up, the yes vote on the joint resolution proposal was 1,182,000 to 443,000. I think the voters of this state have demonstrated that they like the language that was in the 1946 sales tax diversion amendment and they have reiterated it and kept it over the years.

CHAIRMAN MARTIN: Dr. Anspach.

MR. ANSPACH: Mr. Chairman and members of the committee, reference has been made to the fact that the people of Michigan have voted on this matter and have expressed themselves rather forcibly. As a member of the committee on education, we had a large number of people in, and no one who appeared before the committee, as I recall, had anything to say about eliminating any reference to or eliminating this diversion

of the tax or tampering with it in any way. The testimony was all in favor of retention.

Because all the arguments have been in favor and because I support the Austin amendments, I presume I could save some time as this man did. He had a copy of the Lord's Prayer put up on the wall, so at night all he had to do was point to it and say, "Lord, those are my sentiments," and get in bed. (laughter)

Now, when a person speaks, he generally adds up to the fact he is either going to say no or yes. That is about it. So I say yes.

But before I sit down, I want to read you some statements. This is a statement from the central Michigan school administrators' research association which is made up of representatives of school systems, Mt. Pleasant north to the straits.

Earmarking of revenues for public education should be continued at not less than the present total levels of returns. The manner of distribution of such revenues to the schools should be on a membership basis defined by the legislature.

Second, a telegram, January 10—not today—from the Michigan association of school administrators, which is an association made up of all administrators and school superintendents in the state of Michigan:

MASA council in convention at Grand Rapids this date unanimously approved this resolution. MASA is clearly and firmly in favor of the continuance of constitutionally earmarked funds for public school education. Further, MASA is unalterably opposed to any attempt to tamper with these dedicated funds.

Now I quote from a bulletin of the Michigan educational association:

The board of directors adopted a resolution reaffirming their support for earmarked funds for education sufficient to the degree that the state educational programs will in no way be impaired beneath its present level and urge and encourage adequate earmarking of funds to improve greatly the existing program.

Someone may say that this merely supports the earmarking of funds; had nothing to do with the 1946 base. A while ago I called a person who was head of a professional organization, and he assured me it is essential that the 1946 base be retained.

CHAIRMAN MARTIN: Mr. Austin.

MR. AUSTIN: Mr. Chairman, I should probably quit while I am ahead, but there is one point that I should clear up. Mr. Hanna made the point that the 1946 base could not be reduced by the legislature. I think the point was made much earlier that the legislature does have the right to remove items from the base. That language in the constitution refers only to the distribution that is to be made, and does not refer to the tax base.

CHAIRMAN MARTIN: Mr. Staiger.

MR. STAIGER: I would just like to point out on this argument we have that the people have put this in, that I think it is a matter of reviewing all of the different issues and language in this amendment as adopted, and to say that the people were for one alone, or that they could single out one and be opposed to that before another, is just impossible. It was a package that was submitted to the people. This is the only chance and the first chance that any group has had to review each item independently and have an opportunity to take out those things that are not needed. Before, when the people voted on it, it was either yes or no. You are in favor of support for schools or you are against it is about what the amendment was as a package. Now we have a chance to clean up some of this language, keep the good points, remove the parts that we think are unduly restrictive on the legislature.

This is exactly what the committee has attempted to do, and I urge your support of the committee proposal and am against the Austin amendments.

CHAIRMAN MARTIN: Mr. Hutchinson.

MR. HUTCHINSON: Mr. Chairman, I was interested in what Mr. Austin just got through saying. As I understood him, he said that he understood that the 1946 base had to do only with the distribution of money that went to the support

of the schools and the local units of government, and it did not prohibit the legislature from reducing the base. Now, I would just like to know how in the world that would work. If, for instance, the legislature should take the sales tax off of food, then how are you going to measure the tax which goes to the schools? You see, if you take the tax off, how are you going to estimate how much money would come in when you don't have a tax on the item? I think the argument is really not very practical. I think that the situation is that actually the legislature is without power to remove anything out of that 1946 base, and I oppose the Austin amendments on that ground.

I think we are acting in a very shortsighted manner if we proceed to write this kind of statutory restrictive material into a constitution. If we are of a mind to expect the legislature to meet the fiscal problems of this state, we have to give the legislature flexibility, and you aren't going to give the legislature flexibility in this particular field if you say that whatever was taxed in 1946 has to be continued to be taxed no matter what happens. I still can't follow Mr. Austin when he says, "Well, the legislature could take something out of that base, because we can still take it out and then you would still make the distribution just as though the tax had not been removed"—because I don't see how in the world you can measure a tax that isn't there.

CHAIRMAN MARTIN: Mr. Brake.

MR. BRAKE: I have been puzzled by a lot of this argument. I am accustomed to flexibility of lawyers' viewpoints, but not to this much flexibility in laymen's viewpoints. We have heard one person after another who has always advocated the taking of the sales tax off foods now scared to death for fear the schools are going to lose some money because the sales tax will be taken off from food. I can't reconcile the 2 viewpoints.

I wonder, Mr. Chairman, if we haven't said everything that can be said on these particular amendments. I am sure there are a dozen more in connection with this proposal. I wonder if we can't vote pretty soon.

CHAIRMAN MARTIN: Mr. Binkowski, I call on you next.

MR. BINKOWSKI: Mr. Chairman, I share Mr. Brake's viewpoint regarding this flexibility, and if those people are urging flexibility in the area of the legislature, I wonder why we don't just eliminate all earmarking, number one. But also I am wondering what these people are going to say when we come up for discussion on the prohibition of a graduated income tax. I wonder if in that area they will want to leave the hands of the legislature untied and provide for all of this flexibility.

CHAIRMAN MARTIN: Mr. Austin.

MR. AUSTIN: Mr. Chairman, in answer to Mr. Hutchinson, I would like to quote from the Michigan Tax Study Staff Papers, 1958, which I think most of the delegates are familiar with. I am reading from page 426:

Article X, section 23, contains provisions requiring that a certain amount "of a state sales tax levy on each dollar of sales of tangible personal property on the 1946 statutory base (not rate)" shall be returned to local governmental units ( $\frac{1}{2}$  cent) and school districts (2 cents). The meaning of the phrase "on the 1946 statutory base (not rate)" is most obscure. For instance, does it prevent the legislature from altering the 1946 base by exempting sales of food from the sales tax? In 1956 the attorney general tendered the opinion that an attempt to carve out such an exemption would be constitutional.

and it refers to opinion 2470, opinions of the Michigan attorney general.

CHAIRMAN MARTIN: Mr. Bonisteel.

MR. BONISTEEL: Mr. Chairman and fellow delegates, I shall be very brief. I am speaking in favor of the minority report. First of all, I wish to state that I support what Delegate Bentley had to say about the vote of 16 to 1. It is reminiscent of the Bryan days, but nevertheless, that was the vote that was taken in the education committee to retain the present language in the constitution. Secondly, the witnesses that appeared before our committee were, all of them, unanimous in the retention of the present language, so far as I know and as

far as I can remember. The people have voted 3 times on this, and once a very definite vote to repeal, making a total of 4 times this matter has been voted upon, and on each occasion the language which we are now discussing was contained in the provisions voted upon.

If we are to do away with all earmarking, that is one thing. But if we are only going to do away with the earmarking here or with a provision which I believe is the sustaining base of the earmarking for schools and municipalities, then I think it would be highly discriminatory. I believe that the submission of this article without a base makes possible a withdrawal of base components without adequate substitution.

Then I agree also with the point of view that has been expressed here that we will be well advised to retain the language which is in this minority report if we are to follow the direction of the people, particularly when it comes to the adoption of whatever document we submit to them as a result of this convention. Again I wish to reiterate I support the minority report.

CHAIRMAN MARTIN: Mr. Doty.

MR. DEAN DOTY: Mr. Chairman, I was just sitting here thinking about an income tax in the state of Michigan, with a deductible millage formula to take care of the schools and another pattern to take care of the townships and local government, mixed with the sales tax diversion amendment and a few others, reminded of the votes of the people over the years and of one last fall calling for a state constitutional convention. Are we here to write a new document or to put back all the old language? I wonder where all these people are who have been hollering for tax reform. I hope they are with us. I endorse the committee report.

CHAIRMAN MARTIN: Mr. Iverson.

MR. IVERSON: Mr. Chairman, members of the committee, I would like to ask Mr. Austin 2 questions. Mr. Austin, would you say that the legislature under the present constitutional provision could repeal the sales tax law?

MR. AUSTIN: I believe the legislature could repeal the sales tax law, because the present constitution merely sets a maximum on the rate. The legislature could levy up to 4 per cent, but any amount under that, including zero.

MR. IVERSON: Then assuming that is so, if it seemed desirable for a tax renovation or whatever you want to call it, wouldn't your amendment in effect amount to a constitutional appropriation if the legislature repealed the sales tax law and decided to go on with something else?

MR. AUSTIN: I think that is correct.

MR. IVERSON: All right. One more question: I believe you talked about the question of exempting food and drugs, and I assume that your amendments are sort of contingent upon some such proposal being introduced in the legislature, if not here. Are you familiar with an attorney general's opinion of about 1936 which held that they could not exempt food and drugs as such?

MR. AUSTIN: No, I am not familiar with such an opinion.

MR. IVERSON: Well, there is such an opinion, and it held that if the legislature wanted to exempt specified items of food and drugs, they could do so, but so long as you have a uniform method of taxation provided in the constitution, it is utterly impossible to exempt food and drugs as such.

MR. AUSTIN: Mr. Chairman, Mr. Iverson, my understanding is that the legislature can remove any items from the base, as the law is now set up on the books. It is possible for the legislature to exempt materials used in industrial processing and in agricultural processing. It does not exempt purchases made by manufacturers or by farmers that are used by these processors in other operations. Now, there is no reason why at some later date, in order to improve the industrial climate of Michigan, that we might decide that all sales to industrial manufacturers might be exempt, just as we are concerned about possibly exempting personal property used by industrial manufacturers. If any of these items are removed from the base, they will tend to reduce the amount distributed to schools and to local units of government.

MR. IVERSON: Well, may I conclude then, Mr. Chairman, by saying that apparently Mr. Austin is not familiar with

what I believe is the last opinion on this matter from the attorney general, and in view of the fact that the amendments submitted by the minority would in effect constitute a constitutional appropriation if the legislature decided to rearrange our tax structure, then I feel that we should oppose these amendments and support the committee report.

**MR. AUSTIN:** Mr. Chairman, in answer to Mr. Iverson, I don't think there is any question that the people intended that this should be a minimum appropriation for the support of schools and for the support of local units of government. I think that all that was intended, and that the issue before us now is whether we shall maintain this minimum base of state support, and I believe that is what the people intended, and I think we ought to vote for these amendments.

**CHAIRMAN MARTIN:** Mr. Upton.

**MR. UPTON:** Mr. Chairman, I would like to rise in opposition to the Austin amendments. I feel that the people are looking for financial reform. They voted last year for a 1 cent increase in sales tax. They didn't ask for this to be earmarked. People are not looking for additional funds to be earmarked.

The legislature in the last 5 years has given to the schools a greater sum than was, say, due them—if you wish to use this word—by constitutional amendment. The legislature is taking on its responsibility in the supporting of schools. In my opinion we don't need any earmarking.

But believe me, they should have the right to select a broad based tax that they may wish to impose, let's say, on us, and part of the sales tax may not be part of their picture 10 years from now or even next year, and if we insist upon putting in such things as we are calling for in this minority report, the legislature's hands are going to be tied in determining what taxes are going to support our government, both state and local, and the schools in the long run for your children and mine will suffer, and suffer to the end, because the legislature has not taken on the responsibility to give them the tax reform that they should have. I would strongly oppose the minority amendment.

**CHAIRMAN MARTIN:** Mr. Ford.

**MR. FORD:** Mr. Chairman, there has been a red herring, I think, dragged across our path here. Several people have made mention of the fact that in the 4 or 5 years just past the legislature has in fact appropriated more money than the minimum prescribed by the earmarking clause. I would like to ask these people 2 questions: number one, would the legislature have appropriated the amount of money that it appropriated if the appropriation was starting from zero and going to the figure they reached rather than starting from the base and going to the figure they reached? Secondly, have you ever heard anybody in the field of education in this state indicate that the legislature has in fact appropriated enough money for what they consider the basic necessary needs of the education system of this state in the last 4 years or at any time in the last 20 years?

**CHAIRMAN MARTIN:** The question is on the minority amendments. All those in favor will say aye. All those opposed will say no.

**A DELEGATE:** Division.

**CHAIRMAN MARTIN:** Division is asked for. Is the demand supported? A sufficient number up. All those in favor of the minority amendments will vote aye on the board. Those opposed will vote no.

**SECRETARY CHASE:** Has everyone voted? The machine is locked and the totals will be recorded. On the adoption of the amendments proposed by Messrs. Austin, Binkowski, Ostrow, Pellow, Stopczynski, Walker and Young, the yeas are 59; the nays are 67.

**CHAIRMAN MARTIN:** The amendments are not adopted.

**SECRETARY CHASE:** Mr. Bentley now offers the following amendments:

1. Amend page 2, line 3, after "property" by inserting "on the 1946 statutory base (not rate)".
2. Amend page 2, line 4, after "shall be" by inserting "deposited in a special school aid fund and be".
3. Amend page 2, line 7, after "law.", by inserting "Said school aid fund shall be separate and distinct from the state

general fund."; so that the paragraph at the top of page 2 beginning in line 1 will read:

There shall be set aside for the school districts 2 cents of a state sales tax levy on each dollar of sales of tangible personal property on the 1946 statutory base (not rate) to be allocated among said school districts by law. Such taxes so collected shall be deposited in a special school aid fund and be expendable only by legislative appropriations for aid to the school districts and school employees' retirement purposes, as shall be provided by law. Said school aid fund shall be separate and distinct from the state general fund.

**CHAIRMAN MARTIN:** Mr. Bentley.

**MR. BENTLEY:** Mr. Chairman, I ask unanimous consent to withdraw that portion of the amendment which the secretary has just read and which has already been covered by the Austin amendments on which the committee has spoken its will. In other words, if the unanimous consent request is approved, the amendment would merely refer to the school aid fund and not to the 1946 statutory base.

**SECRETARY CHASE:** Mr. Bentley in effect has offered 3 amendments. He is withdrawing the first one. So his amendments now are as follows:

2. Amend page 2, line 4, after "shall be" by inserting "deposited in a special school aid fund and be".

3. Amend page 2, line 7, after "law.", by inserting "Said school aid fund shall be separate and distinct from the state general fund."

**CHAIRMAN MARTIN:** The question is on the Bentley amendments. Mr. Bentley, do you wish to comment further?

**MR. BENTLEY:** Mr. Chairman, I already explained at the afternoon session that this reflects the vote of 16 out of 17 members of the education committee that voted on this subject. The vote was 16 to 1. And, as I said also this afternoon, the education committee earlier in its recommendations for the exclusion of certain sections made reference to a special school aid fund which the committee is very strong in believing should be retained in the constitution.

**CHAIRMAN MARTIN:** Mr. Brake.

**MR. BRAKE:** Mr. Chairman, ladies and gentlemen of the committee, I think we might just as well get right down to brass tacks on this proposition. You will recall that some time ago we did bring before you and tried to get you to accept a plan for the management of state funds that would bring some system, much better practice into the handling of those funds. You didn't see fit to go along at that time. I told you Friday that there was a change in the sales tax leading in that direction. What we are trying to do is to put the school money on the same basis as the road money so far as handling is concerned in the state treasury. It takes out the words that this shall be a special fund.

You will recall that the legislature has enacted a statute which authorizes the fiscal officers to commingle the funds to the extent of meeting emergencies—not for the permanent use of the funds for any other than their specified purpose, but to manage them. That has not been possible with the school fund because of this restriction in the constitution. In other words, the treasurer has been allowed to take road money to pay the schools on time. He has not been allowed, in case of emergency for a few days, to take school money to pay the roads on time. It has been a one way street. That is the purpose for this change.

It is not a matter of using school moneys permanently for any other purpose or road money for any other purpose permanently, but a matter of management of the funds as we go along. The need is not so great, probably, after the short term borrowing provision that you have approved, but there still is need for it, still need for some management of the funds as they would be managed by a business corporation or any other business institution, and we are, as a committee, opposed to the Bentley amendments.

**CHAIRMAN MARTIN:** The question is on the Bentley amendments. Mr. Richards.

**MR. L. W. RICHARDS:** I would like to rise in support of the Bentley amendments. I had supported the minority report,



hoping we would have that base rate, and it would disturb me a lot if we lost the separation of funds. Certainly I feel the money for education should be kept in a separate fund. It is a need. And I realize that one of the most important factors in our state is the education of our children, and if we are going to disturb this fund to a point where we will not separate the moneys, I think reaction of the people of the state of Michigan will be such, it will be very important to us tonight to consider to make sure we have this fund separated.

CHAIRMAN MARTIN: Mr. Hutchinson.

MR. HUTCHINSON: Mr. Chairman, the constitutional creation of a fund called "school aid fund" was introduced first into the picture in 1954 by the so called Conlin amendment. Prior to the Conlin amendment, there was no special fund set up in the constitution which set aside school moneys. Back before the Conlin amendment, the sales tax money was distributed to schools not on a current basis but upon the basis of the receipts earned in the last completed fiscal year. Back in the days before the Conlin amendment, then, the schools knew, even before the legislative bill was introduced, how many dollars there were to be distributed in a particular year through the school aid formula. They knew that because they already knew—it was a matter of public record—as to the amount of money which the sales tax had produced in the last completed fiscal year. In that system prior to the Conlin amendment, then, at least there was a factor of knowledge and certainty, and school boards could govern themselves accordingly. The only risk they ran was that the legislature might, during a particular session, so radically change the school aid formula that what they had gotten the year before might be greatly changed because the legislature might change the formula.

The schools thought it desirable, and many of us did also,—I supported the Conlin amendment in the legislature—to put the schools on a current basis, and to do that, the Conlin amendment in 1954 was submitted to the people. They, among other things, not only put the matter on a current basis, but they also created the special school aid fund in the constitution. This arrangement has certainly not proved beneficial, really, either to the schools or to the state treasury. It has introduced a rigidity so far as the treasury is concerned, and on the other hand has made it absolutely impossible for the several school districts in the state to know how much money they are going to get at the time when the school boards have to decide upon their budgets.

Upon further reflection on my part, I think that there were a good many features in the Conlin amendment which proved to be a mistake, and one of the features in the Conlin amendment which I accepted very reluctantly at the time is one which I always thought was wrong in principle and I reiterate it again now. I think it wrong in principle to set up constitutional funds in the state treasury. The road money is not constitutionally set up in a fund. The highway fund is not a constitutionally created fund. I think it was a mistake to create a school aid fund in the constitution as a matter of principle, and for that reason, and because of the experience which I believe we have had under the Conlin amendment, I cannot support the amendments now before you, and hope that the committee will vote them down.

CHAIRMAN MARTIN: The question is on the Bentley amendments. All those in favor will signify by saying aye. All those opposed will say no.

A DELEGATE: Division.

CHAIRMAN MARTIN: Division is called for. Is the demand seconded? A sufficient number up. All those in favor will use the voting machine and will vote aye. Those opposing the Bentley amendments will vote no.

SECRETARY CHASE: Has everyone voted? The machine is locked and the totals will be recorded. On the 2 amendments offered by Mr. Bentley, the yeas are 46; the nays are 76.

CHAIRMAN MARTIN: The amendments are not adopted. The question is on the committee proposal. Are there any other amendments, Mr. Secretary?

SECRETARY CHASE: Messrs. Spittler and Anspach offer the following amendment:

1. Amend page 2, lines 1 and 4, after "districts" by inserting

"and public school employees' retirement systems"; and amend page 2, line 6, after "districts and" by striking out "school employees' retirement purposes as shall be provided by law" and inserting "such public school employees' retirement systems as shall from time to time be in effect"; so the language will read:

There shall be set aside for the school districts and public school employees' retirement systems 2 cents of a state sales tax levy on each dollar of sales of tangible personal property, to be allocated among said school districts and public school employees' retirement systems by law. Such taxes so collected shall be expendable only by legislative appropriations for aid to the school districts and such public school employees' retirement systems as shall from time to time be in effect.

CHAIRMAN MARTIN: Mr. Spittler.

MR. SPITTLER: Mr. Chairman and delegates, it is not the purpose of this amendment to change the intent of the committee report. I spoke on this last Friday, and I would like to say just a word concerning it again. The intent of this is that it will make it possible for the payment to be made directly to the public school retirement systems and not to the separate school boards.

There have been during the past few years efforts made in the legislature to remove this requirement and to make payments directly to the various school districts. Now, we have nearly 2,000 of those school districts. If each of those 2,000 school districts had to make payments regarding the retirement system directly to the retirement fund board, it would cost considerably more than it does now and it would be very, very complicated. I am not so concerned about the large school districts that have the funds and have the equipment and have the personnel to take care of that, but I am concerned about the small rural school districts where the financing is not done as well as it is in the larger school districts.

It simply means that they would make 1 payment a year, or 6 payments as they are making now, directly to the public school retirement systems rather than paying it directly to the various school districts. It is not the purpose of this amendment to change the intent of the committee proposal.

CHAIRMAN MARTIN: Mr. Brake.

MR. BRAKE: It seems to me, Mr. Chairman, ladies and gentlemen, that the spokesmen for the schools are very generous. We went over this matter very carefully, and we intentionally did not put in the retirement systems where you have inserted it by your amendment because we didn't wish to tell the legislature that they must appropriate the retirement money out of the schools' share of the sales tax.

As you know, we just Friday approved a proposal which will require the state to pay a great deal more into the retirement systems than they have been paying before, and now you are, it seems to me, practically telling the legislature to take that money out of the schools' share of the sales tax. We didn't do that. We didn't want to do that. But we still certainly provided the language under which they can pay directly into the retirement systems. Notice this:

such taxes so collected shall be expendable only by legislative appropriations for aid to the school districts and school employees' retirement purposes as shall be provided by law.

We had no intention—and I think the language doesn't justify the idea—that we were going to have the school districts paying that money.

CHAIRMAN MARTIN: The question is on the Spittler amendment. Mr. Austin.

MR. AUSTIN: I would like to ask Chairman Brake one question, Mr. Chairman. We have, as of last Friday, provided for compulsory funding on a current basis of retirement moneys for all retirement systems—all public retirement systems—including the school retirement. The question that I want to ask is whether this provision will require the legislature to fund these retirement benefits for school employees, realizing that the legislature cannot be mandamus-ed or forced in any way to provide moneys. I just want to make sure that the record

shows exactly what the committee had in mind in regard to school retirement.

MR. BRAKE: Mr. Austin, that is going back to what we decided last Friday and not the proposal we have before us. It certainly is our intention, and very clearly expressed, I am sure, that the legislature must fund each year each of those retirement systems.

CHAIRMAN MARTIN: Mr. Spitler.

MR. SPITLER: Well, it is the intent of the amendment that whatever money is appropriated by the legislature to the retirement school systems shall be paid directly to the retirement school systems and not to the school districts. That is the intent of the amendment.

CHAIRMAN MARTIN: The question is on the Spitler amendment. All those in favor will signify by saying aye. All those opposed will say no.

A DELEGATE: Division.

CHAIRMAN MARTIN: Division has been called for. Is the demand seconded? Those in favor will rise. I believe there is a sufficient number up. All those in favor of the Spitler amendment will vote aye on the voting machine. Those opposed will vote no.

SECRETARY CHASE: Has everyone voted? The machine is locked and the totals will be recorded. On the adoption of the amendment offered by Mr. Spitler and Mr. Anspach, the yeas are 50; the nays are 70.

CHAIRMAN MARTIN: The amendment is not adopted. Are there any other amendments to the body of the proposal?

SECRETARY CHASE: Pursuant to their minority report, Messrs. Upton, Davis and Seyferth offer the following amendment:

1. Amend page 1, line 6, after "Sec. a.", by striking out the balance of the proposal and inserting:

"In each of the 5 fiscal years following the adoption of the constitution, the legislature shall appropriate  $\frac{1}{2}$  cent of a state sales tax to the cities, villages and townships on the basis provided in the Constitution of 1908. State support for cities, villages and townships may be continued thereafter.

The legislature shall appropriate annually to the school districts of this state, to supplement funds raised locally, sufficient funds to assure adequate opportunity for primary and secondary education in every school district."

CHAIRMAN MARTIN: Mr. Upton.

MR. UPTON: Mr. Chairman, in speaking for the minority on the tax and finance committee, I first would like to state that this amendment is a complete substitute for Committee Proposal 39 and not to be added at the end of the proposal.

[The supporting reasons were read by Mr. Upton. For text, see above, page 787.]

Mr. Chairman, I would like to yield to Mr. Davis.

CHAIRMAN MARTIN: Mr. Davis.

MR. DAVIS: Mr. Chairman, members of the committee, as a member of the committee on finance and taxation, as Mr. Upton has just stated, there was some substantial division upon this matter which is before us, and I would like to consider this question tonight in perhaps a little different light than what it has previously been considered. I think we all recognize that Michigan as such is engaged in big business. We are now handling over a billion dollars a year, and I thought that it might be perhaps appropriate to consider this matter somewhat from a business standpoint as long as it pertains to the handling of money.

In the first place—and it has been stated here previously—better than half of the revenues of the state of Michigan are controlled within our constitution or statutory earmarking. I might say that if I owned stock in any business in which the stockholders by their bylaws or the constitution controlled better than half of the money and decided how it was to be funded, I wouldn't be able to get to a telephone quick enough to sell that stock. I believe this because I think that the management of money is important to efficient and economical handling, and to do this there needs to be flexibility and delegation of authority.

Now, many times during this convention and on numerous occasions I have noted that this convention has looked back into history, so to speak. I think that this was particularly manifest in the discussion which took place relative to the bill of rights and where, with great, meticulous care, we examined the wording in the bill of rights, examined supreme court decisions, and I felt that that was a very high level of debate and I felt that the matter was handled in a very appropriate manner.

However, in the field of business there is perhaps a little different technique used, in which you stress your major emphasis upon the future. In other words, you glance over your shoulder at the past, you take a couple of looks at the present, and with the same meticulous care you examine those things which you believe are assumptions or probabilities as to what will happen in the future. Now, I believe that this is recognized both by large business, small business, and even organizations as a valid method of determining the future. Therefore, I am not afraid to make some decisions based upon assumptions, because I think we all recognize that, as you view the future, you cannot base decisions solely upon facts because you don't have all the facts.

Therefore, at this time I would like to make a few assumptions which I believe will probably occur in this state, and I will say that assumptions are something which you can neither prove nor disprove, but which you believe are probably those things which will occur. One, I believe that there will be a major tax structure revision in Michigan; two, Michigan will levy a flat rate income tax; and three, there will be a broader tax base at the local level besides property for the support of local government and education, or else local government and education at the local level will share in state funds based upon an equitable formula, either one or the other or both, and probably both.

The major portion which is covered under the sales tax diversion amendment is that money which goes to education to the amount of 2 cents. I think that the future needs of education in the state of Michigan can be more adequately met by tax structure revision than they can be by the sales tax diversion amendment.

I will list another assumption: namely, that education at the primary and secondary level in this state will not be satisfied, nor will it be sufficient to supply the needs of education in this state in the future. We have heard it mentioned here before—and I will not dwell on it—that during the last 4 years there has been appropriated by the legislature an amount over and above all of the earmarked funds for education, and I want to point out one year specifically—the year of 1959, when we had what some consider the worst financial crisis in Michigan's history—that the state of Michigan appropriated and paid out to schools more than what these funds amounted to.

Now, I think that it seems to be apparent here that a person has to represent his views somewhat on the basis of what you like or what you don't like. I can't see how this is particularly pertinent, but I might say that I have served in this county upon local boards of education and upon the county board of education, and there have been numerous occasions when I have put my pocketbook where my mouth was in the support of education, and that is one way of determining what an individual really thinks. Also, in the election which took place last fall, the individual who was opposing me made the statement in public that if it hadn't been for my efforts on the county board of education at a critical time, we would not have had a special education program within this county. Now, I'm not going to comment upon his statement, but I will say this: that on my own time I investigated special education because I didn't know much about it. I visited schools. I went out of the county and I came back. And over the protest of some of the property owners in this county, I voted for and supported that measure. Now, in my judgment, in that I did something to support education. And I can come over here to my desk tonight and flip this switch and say, "I am supporting earmarked funds in the constitution for education; I am a good friend to it, in my judgment." It amounts to just about the flip of the switch.

I am going to say just another word on this because it was motivated by a comment which was made previously. I think that education is a good business investment. I realize that there are other points, but I cannot see it as otherwise. I was intrigued by the term "creative industry" which Delegate Norris used some time ago, and if he was thinking what I was thinking, then I like what he was thinking, (laughter) because in my judgment, in the future of the state—and we are already in a space age—there is a wonderful opportunity to develop new industry in the state of Michigan, in which education certainly will play a very important part, and I think we have some concrete evidence of this in some of the new industries which are locating on the east and west coasts, and they are located around the Massachusetts Institute of Technology and Harvard and around the University of Southern California, and I think that the reason that they are there is because of the excellence of their educational institutions, and I submit that the future of Michigan and its business climate will be somewhat determined upon the cooperation between education and industry, and I think that they can supplement each other.

And so, in general, I will take this attitude as far as education is concerned: I prefer that education face the future based upon faith and confidence, rather than preferring a position of dubious security based upon obsolescence.

Now, as far as local government is concerned and this ½ cent of sales tax, you will notice that there is a provision in this minority report which provides for local government on the same basis for the next 5 years. I might mention that Dr. Pollock raised this question, and I felt appropriately so, when he suggested if there was anything in our thinking as to whether we might do the same thing for education. And let me say that, as a member of the group which submitted this proposal, I would have no objections to putting in a minimum base for education to be taken off some time in the future. Frankly, I didn't give much consideration to it because I felt that if in the last 4 or 5 years it had not been adequate, I didn't see how it would be in the future, and I couldn't quite see the use of so much security.

In connection with my own profession, I might say that we are not quite accustomed to so much security. I never planted a crop in my life that I knew what I was going to get for it when I planted it; how much I was going to get for it, what the quality would be, whether there would be drought or flood or hail, and I have had all of them. And if I wanted to look at all of the things that might happen, I never would even buy a bag of seed to plant, let alone ever go ahead and plant it.

Now, I think that in some respects the economy of this state and the government itself have been somewhat dormant. I think that most of us recognize that where there is a progress, there must, of necessity, be change, but we likewise recognize that progress is not always steady or continuous; it comes in surges, and we have noted this many times in the history of this country.

And I will now make another assumption: I believe that there is, rising up from the grass roots of the people of the state of Michigan, a willingness and a desire to have some kind of tax reform in this state which will grant some relief to property owners, some relief to business, and can help to stimulate the general economy. This is an assumption which I can't prove, but I think that there are some straws in the wind which indicate that this is the general direction.

I would like to mention about the point of tax legislation because it has been voted into the constitution. In my judgment, I do not believe that tax legislation which is voted into the constitution is particularly good or sacred just because it has been placed there. I think that the reason these amendments were placed in our constitution is because the people wanted to support education to a higher degree than what it was. They wished to support local government more, and in some instances they were wanting to take some of the pressure off of property taxes, and I think that the reason it is found here is because some people in state government either lacked the courage or the understanding to initiate changes when changes were needed.

And I might say as a delegate I would feel a little ill at ease in pointing fingers at anyone in state government, past or present, who is unwilling to accept some changes based upon valid assumptions and facts. I would be a little reluctant to do that unless I were willing to do it myself. And I might say that in the committee on finance and taxation—and I presented somewhat the same view—one of my good friends upon the committee said, "Well, your argument makes sense, but don't you know that in government you can't do things this way? You have to figure up what everybody likes and what all the organizations think and so forth." I would like to say that I have never run for an elective position in government before, but I couldn't see how I could add to the tax structure and come up with a sound, reasonable conclusion if I had to base it upon politics, apportionment, present content of the legislature; how many people have voted for it in the past, how many people voted against it, how many organizations are for it now and how many are against it, and how many there are in each one; and, by far the greater in my judgment, the people in the state who may not particularly be members of any representative group. Now, this idea of trying to incorporate all of this into the tax structure of this state really distressed me, and the fact is that to try it would make me mad. Probably if I were a progressive thinker, I could add all of these things in, but I couldn't get my thinking apparatus to incorporate so much territory, so I decided to go ahead and do it as I have been accustomed to doing it.

For that reason, then, I would like to say that I recognize that this is somewhat, perhaps, a voice in the wilderness, and I am not unaware of the fact that the voice in the wilderness lost his head, but I will say that as far as I am concerned, the conclusions which I have reached have not been reached on the basis of like or dislike, nor from a position of fear, nor from a position of seeking favor, but from what I have added up to be the facts as I have been able to determine them after considerable study in our committee, and assumptions as to what I believe are valid, and that is where they came out.

And I would like to summarize with 4 brief points as to why I think our constitution can be improved by the adoption of this minority report. Before doing this, I would just like to make this one comment: that I recognize that perhaps there is a matter of consistency, and I personally don't see much use in being consistent just for the sake of being consistent, and I submit that sometimes it is better to be inconsistent. For example, I think it is better to be inconsistently bad than consistently bad (laughter) and if anyone should draw a parallel to this situation, why, so be it. (laughter) I think that the constitution would be better with the provisions of this minority report in it for 4 principal reasons; one, the tax structure of a state should be flexible to meet changing conditions; 2, the major part of the sales tax diversion amendment is not functional and probably won't be in the future; 3, removal will stimulate encouragement to tax structure revision in this state; and 4,—and possibly the most important, at least in my opinion—elimination will evidence faith and confidence in the state of Michigan. (applause)

CHAIRMAN MARTIN: Mr. Bentley.

MR. BENTLEY: Mr. Chairman, following the eloquent remarks of the 2 preceding speakers, it would be a brave man who would attempt to make a speech, and it is not my intention to do so. I have one question to be directed to either one of the 2 previous speakers, 2 of the signers of this minority report. If I understand the intent of this minority proposal, its adoption would mean the following: the indefinite retention of earmarking on highways; the elimination, after 5 years, of the earmarking for the local government units; and the immediate elimination of earmarking for our schools. Is that correct?

CHAIRMAN MARTIN: Mr. Upton.

MR. UPTON: That would be the intent, yes, sir.

MR. BENTLEY: Thank you.

CHAIRMAN MARTIN: Mr. Seyferth.

MR. SEYFERTH: Mr. Chairman, delegates, any remarks after that speech of Delegate Davis would be an anti climax to the subject at hand. You missed your calling, Charlie. (laughter) To qualify my remarks, I direct this statement to

Dr. Hannah. I did, Dr. Hannah, vote in favor of Mrs. Cushman's amendment. The basic purpose for this presentation on the minority report on the subject at hand has to do, in a sense, with the same interest that Mrs. Cushman presented, in that this is an important enough subject for the people of the state of Michigan to debate freely on this floor as a forum. Whether or not we agree with the principle of elimination of earmarking is our personal conviction, but there are enough people in the state of Michigan who do firmly believe that earmarking as such should be eliminated, and it certainly should be the prerogative of this convention, then, to provide for those people and for the opposing side an intelligent debate on the subject. We had such within our own committee, and we had some interesting splits when we separated the individual earmarking funds.

As individuals signing the minority report, we take this position also: that to view earmarking or all of the bad points of earmarking or the good points of earmarking currently is not placing ourselves in the proper perspective for future evaluation of our fiscal overall responsibilities. That has become a trite phrase on this floor, fiscal responsibilities, but certainly it is our obligation to look forward in the years to come to determine whether or not our action now is properly serving the future when it comes to the state of Michigan and its fiscal responsibilities.

The meaning of this minority report is just as Delegate Bentley indicated. We were outnumbered, outmaneuvered on the highway tax. As an individual I am in favor of the elimination of all of the earmarking of funds and giving to the legislature the full responsibility to determine where the budgeted income should go to meet the budgeted outgo. That is why we elect legislatures, and if we are not satisfied with the handling of the fiscal situation of the state of Michigan now or in the future, then, of course, it is our prerogative to change those faces on the floor. I speak very definitely, Mr. Chairman and delegates, in support of the minority position.

CHAIRMAN MARTIN: Mr. Brake.

MR. BRAKE: Mr. Chairman, ladies and gentlemen of the committee, you have noticed, of course, that the amendments proposed, except for the one, came from members of the finance and taxation committee. I want you all to know, however, that in every instance those who have suggested these changes suggested them in committee; let the whole committee understand exactly where they stood. There has been no surprise. I don't know what Mr. Seyferth meant just now when he said they were outmaneuvered on the road taxes. But the committee has been well organized. We knew what was coming. It is a matter of an honest difference of opinion as to what the policy ought to be. The argument on both sides has been very complete.

You have been told that the people ordered this, not the legislature; that they reaffirmed their position as recently as November, 1960. You have been told that it isn't costing much money, and that most of the members of the committee—not quite all, but most of the members of the committee—believe very firmly that if we were to take all earmarking out, we would be wasting the \$3½ million [which includes the cost of 2 special elections] that this constitution is going to cost. We are not prepared as a committee to go in that direction. I trust that the finding of the majority of the committee will be the finding of the committee of the whole.

CHAIRMAN MARTIN: Mr. Yeager.

MR. YEAGER: Mr. Chairman and ladies and gentlemen of the committee, I rise to support the position of flexibility and sound fiscal management as far as the state of Michigan is concerned. Flexibility is sort of like the weather: everybody seems to talk about it but very few people are willing to do anything about it.

Now, the first part of the minority report substitute relates to local government. We had a presentation made before the convention by President Eisenhower. We have heard Dr. Pollock speak on this subject, and many other people in the convention have mentioned the fact that one of the problems we face in this country is that local governments are bypassing their state governments, and state governments themselves are

going to the federal level to try to solve problems of finance and other matters. It seems to me that when we go to other units of government to solve financial problems, by the time the money gets back to the unit of use, there seems to be something lost in the translation. I submit that by allowing the local governments to begin to fend for themselves at the end of 5 years, giving them sufficient authority to do so is not an unreasonable approach.

The second part of this relates to the earmarking for schools. There has been a lot of talk of the minimum base which everybody admits is woefully inadequate. I think that school financing will be hurt in the long run by maintaining this base with the so called benchmark. I think that we will begin to think in terms of an increase of X dollars above the benchmark rather than the total need of schools. I therefore urge your support of the minority report substitute.

CHAIRMAN MARTIN: Mr. Faxon.

MR. FAXON: Speaking in opposition to the minority report, I have heard several speakers refer to the fact that this base is hurting the schools. Now, as an educator, and having heard many of the people in education come before the committee on education, this is the first time I have ever heard any reference made to the fact that this minimum basis of support is hurting schools. It is actually meant as a support for the schools. It is not hurting education or not hurting educators, and there is no one in the field of education that would affirm that.

I, furthermore, am a little bit troubled by the attitude that we are not to look back at all in terms of the previous decisions of the people regarding the history of our country and our state respecting the whole field of education. I would have hoped that some of the remarks that have been made with regard to attacking school funds could have been made on the idea of earmarking when we were dealing with highways, when some of these voices weren't raised at all. When it comes to education, everybody seems to have a field day. We are dealing here not only with the section under earmarking but, as I understand it, this proposal refers also to the primary school interest fund, and this is something that I haven't yet heard anyone reach, at least in terms of its historical development.

But we are dealing with a fund which has as its basis the Ordinance of 1787, its subsequent development in our state. It has been a base of support in the Constitutions of 1835, 1850 and 1907. Now, all of a sudden, in a few short minutes we are asked to turn our back upon a whole history of development of support for public education in this state, and we are asked to turn our back to the votes of the people in 1946, in 1954 and in 1960 with regard to school support.

I don't think we are in a position to refute our tradition and our heritage with regard to school support and our responsibilities to maintain that support.

CHAIRMAN MARTIN: Mr. Sterrett.

MR. STERRETT: Mr. Chairman, members of the committee, I rise in support of the minority report. I am sure that you are all aware that in order for a builder to build a building, he must have adequate blueprints. In my opinion, the committee proposal provides the blueprints for the basement. The minority report would be the blueprint for a very fine building, and that would be the state of Michigan, a very fine, sound, economic state.

I am sure parents will think we are against their children having an education. Well, this is not true, because as soon as these people across the street here ever go below the appropriations, our good jury up here on the left [the press] will never let them forget it.

It has been said that the legislature has appropriated more than the earmarking. As Delegate Hutchinson said, we should give our legislators more flexibility. Also, he said the school aid fund provided in the committee report as well as the first minority report sets up an undesirable rigidity.

For instance, the sales tax diversion: Mr. Austin feels that the legislature can repeal the sales tax. Where do these words leave us with the committee report if the sales tax is repealed? What if we should go into an income tax?

We should be prompted here to write a modern constitution that is workable without any stone walls in the way of the state; and the state should be able to operate in any manner of taxation that is set out to the people. Therefore, I support this minority report because I feel it is sound and sensible.

CHAIRMAN MARTIN: Mr. Prettie.

MR. PRETTIE: Mr. Chairman and fellow delegates, I came to this convention dedicated to the proposition that it was my responsibility to present here the views of the constituents who so honored me. Very shortly after my election as a delegate here, the superintendents of schools in my own community and in the adjacent community called for an appointment, and asked for the opportunity to voice their views to me. I was prepared then to hear an argument strongly in favor of the continuance of earmarking, particularly as it related to the sales tax diversion in favor of our schools. I had a conference lasting about an hour and a half with these 2 gentlemen, and learned they were speaking not only on behalf of themselves and the systems that they represented, but on behalf of the southeastern Michigan school representatives, and by that I do not mean to include Wayne county. To my utter astonishment, they said, in substance, that they were not particularly concerned that earmarking should be continued in our constitution because, as has been pointed out here in this debate, additional funds have been required and have been granted over the several years immediately past.

I asked them to place in writing to me their recommendations in this and other regards. I have in my hand a letter dated November 30, 1961, to which is attached a copy of a resolution adopted by the southeastern Michigan association of school administrators, covering the areas of Monroe, Lenawee, Hillsdale and Washtenaw counties. This report deals with many subjects other than that with which we are presently concerned. I will not deal with those at this time. Their tenth recommendation is this:

We would agree to the elimination of earmarking of funds if all earmarking of funds is eliminated. However, if there is any earmarking of funds, school funds should also be earmarked, or constitutional guarantees insofar as school funds are concerned should be given.

The clear line of demarcation between the principle of earmarking as to highway funds, the sources of which come from those who use the highways, has been clearly pointed out in our debate here this afternoon. I think the proposal of the minority is within the recommendation of the school administrators for whom I speak here, and I support the report of the minority.

CHAIRMAN MARTIN: Mr. Hanna.

MR. W. F. HANNA: Mr. Chairman, in reply to the remarks by Mr. Faxon, as a parent of 5 children and interested in education, and knowing that Mr. Faxon is a member of the education committee, I question whether or not the earmarking under the sales tax amendment is necessary under the proposal adopted by this committee with regard to Committee Proposal 30, which says that the legislature shall maintain and support a system of free public elementary and secondary education. The minority report submitted by Messrs. Davis, Seyferth and Upton repeats that language.

To talk about retaining the sales tax diversion amendment of 2 cents for educational purposes is to laugh at and make a mockery of what this committee has adopted and what the education committee adopted under Committee Proposal 30. If you believe what we said in Committee Proposal 30, then you believe the last part of the minority report with regard to financing.

Certainly it is important that the legislature and the governor, whoever he may be, and of whatever political party, have the right to determine how the money will be raised for education and to determine how that money will be extracted from your pocket and mine resulting in doing the least damage to the total economic structure of Michigan.

Secondly, to those people who wish to earmark specific monies for education, let me say that we have spent a great deal of time arguing about discrimination. Are we to discriminate in favor of those people who can go to public schools at the

expense of those unfortunate children that are confined to mental hospitals, those people that are in sanatoriums, the aged? Are school children—are my children any better than the crippled or injured adults or children? We have talked a lot about discrimination, and now the education people wish to discriminate in the spending of public funds to the total lack of consideration of all the needs of Michigan.

I believe that the minority report assures education a fair share of Michigan's economic wealth, and coupled with Committee Proposal 30, insures for my children and any other children in this state a good, fair, well supported, public, free elementary and secondary education. I support the minority report.

CHAIRMAN MARTIN: Miss Hart.

MISS HART: Mr. Chairman, I am sure that if we could persuade the majority members of this convention to adopt Dr. John Hannah's proposal for apportionment of the house, and Dr. Pollock's first proposal for apportionment of the senate, we would then have complete confidence that we would have fiscal reform in the state of Michigan, and that the welfare of the children we are worrying about now would be properly taken care of, and I am sure then that the minority would be perfectly willing to remove all requests for earmarking of funds for schools come 1970 when Dr. Pollock's proposal would then take further effect.

CHAIRMAN MARTIN: Miss Donnelly.

MISS DONNELLY: I rise to support the minority report, for the simple reason that I feel the majority report has so weakened and infringed upon the basic attitude that was originally written into this amendment, there is very little left except its appearance. The minority report squarely gives it to the legislature to take care of the issue, and I think with the other basic proposals that this committee has given to this convention, we will have a better overall fiscal policy, and therefore I urge support of the minority report.

CHAIRMAN MARTIN: Mr. Tubbs.

MR. TUBBS: Mr. Chairman, I am especially happy to be able to concur in the stand of 2 former members of the judiciary committee. I think it is the first time we have all agreed on anything. (laughter) I want to support what has been said by Mr. Prettie and by Miss Donnelly, but for a different reason. I speak as an educator, I think—I hope I do. I spent 3 years on the board of education of the county, and then 12 years on the board of education of Grand Rapids, the last 2 as president. And as president of a board of education of a second class city, I had veto power, which is more power than Mayor Paul Goebel had when he was mayor of the city of Grand Rapids. And I think I can say that I came here to vote my convictions. I did not come here to maintain and support a constitution which is outmoded. And I don't care if it was voted on yesterday by the people of Michigan; if it is wrong in principle, I am going to be against it, and earmarking funds is wrong in principle.

CHAIRMAN MARTIN: Mr. Allen.

MR. ALLEN: Mr. Chairman, I would like to speak on the first part of the minority proposal, because it is this portion that pertains to local units of government. I would like to take you back to 1946 and tell you a story. Governor Kelly was then governor of Michigan. The state had a great deal of money which it had accumulated during the war. At that time there were many cities which were under the 15 mill limitation. Not only was the school and the county under it, but many cities were also, and these cities felt distressed, and they came up to see the governor and they asked that they have appropriated to them certain funds. Well, Governor Kelly was not running for reelection, and he turned the cities down. It happened that there was a former mayor of Grand Rapids by the name of George Welch, and George Welch wanted this money, so Mr. Welch started an initiated amendment, and he started out with the cities, and he said, "We are going to earmark some funds from the sales tax." He wanted ½ cent. And after he had gone a little while, he decided he didn't have enough votes, so he thought he would join the townships, and he joined the townships. And then he thought he didn't have quite enough votes, so he really fixed it up and



he went and got the schools. So the combination of the schools, the cities and the townships all joined together.

Now, it happened that not all cities agreed to this, and I remember in 1946 there was a debate over the radio station in Grand Rapids. Mr. Welch was arguing in favor of it. The program was put on, I believe, by the junior chamber of commerce. There were 2 other speakers who came to that debate. One of them happened to be myself. I was the vice mayor then in Kalamazoo. And I spoke against it. There was a third person on the program. He also spoke against the Welch proposal. And that third person is now the chairman of your finance committee. (laughter) Now, I know a lot of water has gone over the dam, but I believe what I said then is still true; that if we took this money from the state and earmarked it for the cities and the villages, something bad would happen to the state. Well, it took about 12 years and it happened.

I think if the legislature would free the local units of government, and I think if the local units of government would be courageous enough not to always pass the buck to Lansing—and I am afraid that this was part of the trouble in 1946—then we could do better and we would solve our own problems. But I think it is bad to earmark in our constitution an inflexible sum for the support of local governments. I thought it was bad in 1946. I still think it is bad. I know the chairman of the finance committee thought so in 1946. I would hope he would think it was bad today.

CHAIRMAN MARTIN: Mr. Faxon.

MR. FAXON: I must respond to this because I, too, feel that we could have handled this. First of all, if all the people felt this way about throwing all this open to the legislature, then they should have done this with the highway fund. And I voted with Mrs. Cushman and her amendment at that time, but I certainly wouldn't feel right in saying it is all right to earmark our highway fund but when it comes to education, we'll trust the legislature—but not for the highways. Now, it has been automatically assumed that highways are a legitimate tax to earmark because they are a user tax. I might point out—and I am sure that the people who are on that committee are aware of the fact—that in some states highway funds are not earmarked specifically for highways but are also used for educational purposes, and I, for one, see no objection to that. So I don't want it to be understood that any type of a user tax is necessarily the best sort of thing for earmarking, because, by that token, we would earmark our cigarette taxes for TB sanatoriums, and our liquor taxes for alcoholics anonymous, and we could go down a whole list of user taxes if you want to earmark it on that basis. (laughter) But if you want to eliminate earmarking and trust your legislature, then don't just pick on the schools; pick on the rest of the full gamut of things and not just on education.

I want to refer specifically to Mr. Hanna. He referred back to me and said that the committee proposal which the education committee recommended and which was accepted by this convention—so far the committee of the whole—deals with support for the public schools, and that this also is an assurance, and it says in the language of the minority report here that the legislature shall appropriate annually to the school districts of this state, to supplement funds raised locally, sufficient funds to assure adequate opportunity for primary and secondary education. We have a lot of nice language: "maintain and support"; "adequate opportunity." This language sounds wonderful. But when it gets down to dollars and cents, that is where the differences begin to appear, and that is why the educators wanted a basis of support, a minimum basis of support, not in terms of very nice and flowery language but in terms of actual dollars and cents, and that is what the sales tax earmarking does.

Now, if we are going ahead and eliminating the earmarking on schools and trusting the legislature, I would say wonderful, if I could have full confidence that the legislature has in the past demonstrated its ability to meet the needs of the school districts and it would do so in the future. But history hasn't shown that. When it has had the opportunity in 1945, there was quarreling and whatnot. I have reference to the whole story of how this got into the constitution, but we have already

heard this. Mr. Brake has given a very fine report on this. I don't have to repeat that there have been some differences of opinion between members of the legislature and local school districts as to what constitutes an adequate level of support.

Then the people took it to themselves to get this constitutional amendment put in. Now, I maintain that the people of this state are very much concerned with education and not with just the fine language that we put into the constitution about maintaining and supporting, but they are concerned with the dollar and cents level of support for education. We may trust the legislature or we may not trust the legislature. I think of a statement that Dr. Brownell made to this committee on education—I think it has been said before—that he trusts his relatives implicitly, yet he makes out a will. And I think this has reference to why we retain earmarking in the constitution for education. We trust the legislature to a certain extent, but we want this minimum level of support guaranteed, and I think that the schools in this state and the people who send their children to schools in this state are concerned with this guarantee, and the words alone are not enough. The dollars and cents allocation by the sales tax earmarking is the kind of guarantee that means something, because it actually puts the money back in the school district where it belongs.

CHAIRMAN MARTIN: Mr. Young.

MR. YOUNG: I have listened very attentively to all the eloquent arguments, and I hope that the previous speakers know what they are doing, but I would hate to see this convention go down in history as the body that built the big, fancy, divided lane, super highways, complete with cloverleaves and over and underpasses all the way to the little red schoolhouse, and then tore the building down. (laughter)

CHAIRMAN MARTIN: Mr. Upton.

MR. UPTON: Mr. Bentley asked a few minutes ago whether or not the minority report called for the end of earmarking of funds for schools. In my estimation, this report gives stronger support for schools than we now currently have in our earmarked clause. In reviewing the booklet which we have all received from the citizens research council of Michigan, Constitutional Earmarking of State Revenues, we find that the states with the outstanding educational systems do not have earmarking for schools. The states who have earmarking for schools are states like Georgia, Louisiana, South Carolina, Texas, Utah, Wyoming and, above all, Michigan.

I believe we do have one of the finest systems of education anywhere in the country, but it is not because of earmarked funds; it is because you and I as citizens believe education is one of the prime purposes of living in this state, of educating our children, and our legislators, Delegate Faxon and other delegates, are not going to forget this and they are not going to ignore the needs for education, and they are going to keep education on the high plane we have. But I feel that budgeting by the constitution is not the thing that we as delegates should do.

CHAIRMAN MARTIN: Mr. Nord.

MR. NORD: Mr. Chairman, we have heard a great deal about the principle of no earmarking as though there is some principle that earmarking is good or earmarking is bad. What principle is there from which you deduce that earmarking is good or that earmarking is bad? Is this a matter of conscience? Is this a matter of basic principle? Is this a matter of morality? What kind of principle is at stake? I suggest to you that what is at stake here is not a matter of conscience, not a matter of basic principle. What is involved is a matter of expedience.

The question is not what is a moral solution; the question is: what will work? Now, what will work will be one thing under one set of circumstances and will be another thing under another set of circumstances. If you asked many of the delegates here, maybe all the delegates here, do they believe in earmarking as an abstract principle, I believe that most of them, maybe all, would say no, they do not. I do not. I don't think much of earmarking at all. I don't think much of earmarking—similarly I don't think much of the noise in this room.

Mr. Chairman, what we are dealing with is an important matter, but it is not a matter of principle or conscience. It is a matter of expedience. As I said, if we were inventing a new

state, I would not be in favor of earmarking, and I am not in favor of earmarking even now. If we accept earmarking, it must be because we feel that under the circumstances and in a particular case it is better to do it than not to do it. Now, as between highway earmarking and earmarking for schools, it seems to me there is a tremendous difference. I believe we would be ashamed to go back from this convention, look people in the eye and say, "We thought that highways were so important we had to guarantee that they would be built; that schools were not that important and that we did not have to guarantee that they would be built." If there is to be a question of priorities, it is absolutely clear in my mind if there is to be any earmarking whatever, it must be for schools.

Now, as I said, if I were starting a new state or if we were in a state which was just being organized, I would not favor any earmarking. It think it is ludicrous to spend money on highways, for example, when people in mental institutions are not being properly cared for. It is a terrible mismanagement of our affairs. I have no doubt about that. In the abstract or in a vacuum, earmarking is bad. It is bad because it is not good common sense. It is not good common sense to tie yourself up so that you must spend money for something you may not need and not be able to spend money for something you may need. Therefore, as I say, in the abstract, in a vacuum, earmarking is bad. But that is not the question. The question isn't whether it is bad in a vacuum. The question is this: is it bad in Michigan for schools at this time?

Now, in order to answer that question, as I said before, I don't know any principle from which you could deduce the answer. You have to look at the facts, look at the experience and find out whether it has been necessary to take this basically unsatisfactory position. We know that normally we would like the legislature to have power to handle this matter, just as if we were at home and we had money coming in, we would hate to be hobbled with rules that we must spend a certain amount of money for clothes when we really need food. We would think it silly. We don't like that principle. It is true we don't like earmarking. We like freedom for the legislature and freedom for every person to spend money as he needs. But does that mean that that principle, so to speak, should be followed to its ultimate limit no matter what the consequences?

And I ask you whether you have ever heard of a case where we take away from a person the power to handle the disposition of his money. Is there ever such a case with a sane person? The answer is yes, there is. It is quite a common situation. When people leave money to an improvident person, a person who is not in fact capable of handling his own affairs, they invent a spendthrift trust. He gets the benefit but he doesn't get the control. Now, similarly with the legislature. We have had experience with this question. Have they been willing and able to do everything that is needed for the schools? In my opinion, the answer is no. It doesn't really matter what my opinion is. This is the opinion of the majority of the people of the state, a great majority of the people of the state who have thought this matter over, over and over again. They are satisfied that if you leave this matter to the legislature that we have in Michigan, that it will not respond to the wishes of the people. We are not dealing with a vacuum; we are dealing with the Michigan legislature. They have not been responsive to the needs of the people on this matter. That is the verdict of the people. And I don't say that we should do it just because the people voted that way, but because that is all of our experience. We know that the legislature has not behaved properly.

The question has been raised in this body over and over again: do we trust the legislature? Half the time some of us do; half the time the same people do not. It all depends on whose ox is being gored. I don't think we can really say that we do or that we don't trust the legislature as an abstract matter. Do we trust the legislature to this extent, that we would allow them to have the power either to have or not to have a graduated income tax? Presumably the answer to that question will turn out to be no. Do we trust the legislature enough, for example, so that we would have been willing to

come here as delegates with no guarantee of any pay? Would we be willing to say, "We don't need to worry; the legislature will provide for us"? Ask yourself that question. If you think the answer is yes, that you trust the legislature to handle money that way, then you are in a good position to say that no earmarking is necessary of any sort. I wouldn't answer that question the same way. I would say that whether or not you could trust the legislature depends on the particular problem at hand, and with the schools the answer has been no, you cannot trust the legislature. I realize that they have appropriated some money beyond the earmark level. I understand that. I am not satisfied that if you remove the entire earmarked funds that they will continue to do the same thing. You have to realize the amount of money that they would need to appropriate for schools if there were no earmarked funds would be a tremendous amount of money. It would be tremendous enough so that in my opinion you could be quite certain it would not be fully appropriated. They would have a 10 per cent across the board cut right from the start, probably, and schools would suffer.

Therefore, let us not get mixed up on abstract questions. Let's not say the legislature should have power on this matter. Let us just take a look at this particular problem. And in this particular case let us stick to the judgment of history on this matter, and on this matter we know the legislature is not an adequate safeguard of schools, and the only adequate safeguard is the one that people have insisted upon and do insist upon, and that is earmarked school funds.

CHAIRMAN MARTIN: Mr. Seyferth.

MR. SEYFERTH: Mr. Chairman, just one or two remarks regarding Mr. Faxon's concern over highway funds. I feel at this point that I am quite well versed in the use of highway funds, and I find that the highway funds are controlled by the legislature in this manner: the extent of the tax and the amount of the tax is controlled by the legislature. The only concern is that moneys that are collected through gas and weight taxes must be put into the highway purposes such as building roads, but the legislature does control the amount of moneys. I have heard this "Brownell will" story 2 or 3 times. I have a different slant on that. I think that Dr. Brownell is a smart man; he draws up a will to save taxes, not to bypass relations.

I think the basic assumption must be made—and it is more than an assumption; it has to be a truism—that the people of the state of Michigan are willing and able and ready to support a satisfactory educational system for their primary and secondary schools, and this sense of responsibility must be given to the legislature to fulfill.

The minority report is not a device to bypass the responsibility of the citizens of the state of Michigan to support an adequate and proud school system.

CHAIRMAN MARTIN: Mr. Higgs.

MR. HIGGS: Mr. Chairman, fellow delegates, at least 4 of the previous speakers have expressed some negative kind of thinking with regard to faith in our legislature. And I, as the father of 4 children, 2 in school and 2 of preschool age, would like to say this: I believe that we must at this convention take a positive, forward looking view of our legislature as presently constituted and as it may be constituted under any apportionment plan that we may adopt, and I would like to say to you that I have every bit of confidence that in the field of education, they will continue to do what they have done in the past, and that is support a fine educational system. Certainly I believe that among our sister states there are very few states that have done as well by their children as ours has done. I think that is all I would like to say.

CHAIRMAN MARTIN: Mr. Van Dusen.

MR. VANDUSEN: I will be very brief, Mr. Chairman. I think when the sales tax diversion amendment was adopted in 1946, it was necessary. However, I think it has demonstrably served its purpose and has demonstrably outlived its usefulness. I applaud the eloquence and the courage of those who have offered this amendment and those who have supported it. I think it represents the difference between mere progress and

a new constitution of genuine distinction. I am proud to stand with them in support of this amendment.

CHAIRMAN MARTIN: Mr. Brake.

MR. BRAKE: Have you other speakers on the list?

CHAIRMAN MARTIN: I have no other speaker, Mr. Brake.

MR. BRAKE: I will delay the motion that the committee rise if they are ready to vote. Otherwise I will have to make it.

CHAIRMAN MARTIN: All right. The question is on the Davis-Seyferth-Upton minority amendment. All those—

MR. STEVENS: Mr. Chairman.

CHAIRMAN MARTIN: Mr. Stevens.

MR. STEVENS: Mr. Chairman, I believe I was on the list, wasn't I?

CHAIRMAN MARTIN: I didn't have you on the list, Mr. Stevens. I didn't see you. I'm sorry.

MR. STEVENS: I wanted to speak merely on the subject of earmarking of the primary school interest fund in the constitution. It has been stated that this was not a moral issue. In the case of the primary school interest fund, I feel that it is a moral issue. I am not talking about earmarking sales taxes.

But since some of you were not required to take a course in the history of education, I would like to go quickly back to the history of the primary school interest fund in Michigan. Most of you know it came from the land, the sixteenth section of each township, which the federal government gave the state of Michigan. The land was to be sold, the money to go into the primary school interest fund. This was to be invested, and the interest from this fund to go into the primary school interest fund. Years and years ago the legislature spent the money out of the primary school interest fund and promised, morally if not legally, that this fund would be maintained by proper taxes. Considering this a moral promise, it was written into the constitution that certain taxes should be earmarked for this fund. That is the reason the primary school interest fund comes from earmarked taxes. Thank you.

CHAIRMAN MARTIN: The question is on the Davis-Seyferth-Upton minority amendment. Mr. Austin.

MR. AUSTIN: Mr. Chairman, I would like to speak in opposition to the amendment. Reference has been made to what has been done to this section, the fact that it has been emasculated, and for that reason we should probably let it go.

As one of those who fought—I don't know whether valiantly or not—for maintaining the base as solidly as possible, I don't mind admitting that although we were not able to maintain the base as I would like to have seen it, I certainly hate to see what we do have go. I would also like to remind the delegates that in our concern for developing our state economically, we must be concerned about the development of our human resources. Our people have spoken several times as to how they would like to have the development of our human resources assured in our constitution. I hope that we will not forget what the people have asked for.

CHAIRMAN MARTIN: The question is on the Davis-Seyferth-Upton minority amendment. Mr. Yeager.

MR. YEAGER: Division requested, Mr. Chairman.

CHAIRMAN MARTIN: A division is requested. Is the demand seconded? A sufficient number up. All those in favor of the Davis-Seyferth-Upton minority amendment will vote aye, and all those opposed will vote no.

SECRETARY CHASE: Has everyone voted? The machine is locked and the totals will be recorded. On the amendment offered by Messrs. Davis, Seyferth and Upton, the yeas are 43; the nays are 83.

CHAIRMAN MARTIN: Mr. Hodges.

MR. HODGES: Mr. Chairman, I request to change my vote from aye to nay. I usually watch to see how Mr. Lundgren votes and I vote opposite. This time he faked me out and voted the way I was going to, and we got all mixed up. (laughter)

CHAIRMAN MARTIN: Mr. Lundgren.

MR. LUNDGREN: A little rebuttal: I was just getting up. I had my hand up to change my vote to nay. (laughter)

CHAIRMAN MARTIN: The Chair might suggest you 2 pick out somebody else to watch next time. (laughter)

SECRETARY CHASE: Accepting the statement of Mr. Hodges, the yeas are 42; the nays are 84. There are other amendments on the desk.

CHAIRMAN MARTIN: The Upton-Davis-Seyferth minority amendment is not adopted.

Mr. Brake.

MR. BRAKE: I move the committee rise.

CHAIRMAN MARTIN: The question is on the motion that the committee do now rise. All those in favor signify by saying aye. All those opposed, no.

The committee has risen.

[Whereupon, the committee of the whole having risen, President Nisbet resumed the Chair.]

PRESIDENT NISBET: The Chair recognizes Mr. Martin.

MR. MARTIN: Mr. President, the committee of the whole has had under consideration certain matters on which the secretary will now give a report.

SECRETARY CHASE: Mr. President, the committee of the whole has had under consideration **Committee Proposal 39, A** proposal with reference to the earmarking of sales tax revenues covering the subject matter of section 23 of article X of the 1908 constitution; has considered several amendments to this proposal; and has come to no final resolution thereon. This completes the report of the committee of the whole, Mr. President.

PRESIDENT NISBET: Announcements.

SECRETARY CHASE: The following announcements of committee meetings:

The committee on finance and taxation will meet in room E tomorrow at 9:00 o'clock a.m. D. Hale Brake, chairman.

The committee on public information will meet in the conference room Wednesday, February 7, at 7:30 p.m. Mr. Ink White, chairman.

The committee meeting announced for the committee on rules and resolutions immediately after the session this evening has been postponed until Wednesday, February 7, at 1:00 o'clock p.m.

The following announcement for the information of the delegates: the schedule in the stenographers' pool has been altered as a result of the change in session time. Hereafter, the stenographers' pool schedule will be as follows: Monday, 1:00 o'clock p.m. until ½ hour after session. Tuesday, Wednesday, Thursday and Friday, 8:30 a.m. until 5:00 p.m., or ½ hour after session, whichever is later. The present policy of the stenographers remaining as long as any delegate needs them will, of course, continue. (laughter)

The meeting of the committee on style and drafting will be Wednesday evening, February 7, at 8:00 o'clock in committee room K. Consideration will be given to all committee proposals pending before the committee that can be covered during the time of the meeting. William B. Cudlip, chairman.

The apples today are from Mr. Turner. (applause)

During the session this evening the secretary was in receipt of the following special delivery letter from Mr. Garvin:

I have not been able to change my February 5 appointment, so as a result I must request to be excused from the session of February 5. After looking at my calendar, it seems that there will be other Mondays that I will not be able to change so that I can be at the 4:00 o'clock session. Very truly yours, Wynne C. Garvin.

PRESIDENT NISBET: Without objection, he will be excused.

SECRETARY CHASE: That is all of the announcements.

PRESIDENT NISBET: Miss Hart.

MISS HART: Mr. President, this is one I can win. I move we adjourn. (laughter)

PRESIDENT NISBET: The question is on adjournment. Those in favor say aye. Opposed, no.

We are adjourned to 9:30 tomorrow morning.

[Whereupon, at 10:25 o'clock p.m., the convention adjourned until 9:30 o'clock a.m., Tuesday, February 6, 1952.]



# SEVENTY-THIRD DAY

Tuesday, February 6, 1962, 9:30 o'clock a.m.

## PROCEEDINGS

**PRESIDENT NISBET:** The convention will please come to order.

Our invocation this morning will be given by the Reverend Robert Ward, pastor of the First Methodist Church of Ypsilanti. Will you please rise.

**REVEREND WARD:** Let us pray. Almighty God, upon whom we are dependent for every good thing and every good thought, help these, Thy servants, to think clearly today. Grant them tolerance of those whose opinions they do not share. Grant them honest criticism of those with whom they agree. In their differences may they be kind; in their agreements may they be right. Amid all the pressures that are brought upon them, may they follow Thy guidance that Thy will be done in this state through them. Amen.

**PRESIDENT NISBET:** The roll call will be taken by the secretary. All present, please vote aye.

**SECRETARY CHASE:** Has everyone voted? The machine is locked and the attendance will be recorded.

Mr. President, a quorum of the convention is present.

Prior to today's session, the secretary received the following requests for leave: Messrs. Danhof and Heideman, from today's session.

**PRESIDENT NISBET:** Without objection, the requests are granted.

**SECRETARY CHASE:** Absent with leave: Messrs. Barthwell, Cudlip, Danhof, Habermehl, Heideman and McLogan.

Absent without leave: None.

[During the proceedings, Mr. Danhof entered the chamber and took his seat.]

**PRESIDENT NISBET:** I am sure I speak for all the delegates when I say we are very happy to welcome back our delegate from Jackson, Mr. James Thomson, who has been ill. Jim, we are glad to have you back. (applause)

Reports of standing committees.

**SECRETARY CHASE:** None.

**PRESIDENT NISBET:** Reports of select committees.

**SECRETARY CHASE:** None.

**PRESIDENT NISBET:** Communications from state officers.

**SECRETARY CHASE:** None.

**PRESIDENT NISBET:** Mr. Norris.

**MR. NORRIS:** Mr. President, I rise at this point on a point of personal privilege, at least for the purpose of making a suggestion. Yesterday, prior to adjournment, I was on the floor but I wasn't recognized. I thought that I had what, in my judgment, was a constructive suggestion and that was, on the general orders calendar, in the publication we receive, that there ought to be noted with each subject matter the presence of a minority report when such minority report is filed, so that when we go through general orders, we can note not only the committee report but a minority report on the particular subject matter.

I think that will add to our deliberations, Mr. President. I don't mean by this a criticism of Mr. Chase or his staff, who have been most helpful under adverse circumstances, but I do think it would be helpful to the delegates.

**PRESIDENT NISBET:** Thank you, Mr. Norris.

**SECRETARY CHASE:** May the secretary suggest that since our calendar has been printed, as rapidly as we can we will correct that situation, but in the meantime when minority reports have been filed, we will make an announcement from the desk as to the page in the journal in which they may be found.

**PRESIDENT NISBET:** Second reading of proposals.

**SECRETARY CHASE:** Nothing.

**PRESIDENT NISBET:** Third reading.

**SECRETARY CHASE:** Nothing.

**PRESIDENT NISBET:** Motions and resolutions.

**SECRETARY CHASE:** There are no motions or resolutions.

**PRESIDENT NISBET:** Unfinished business.

**SECRETARY CHASE:** I have none.

**PRESIDENT NISBET:** Special orders.

**SECRETARY CHASE:** None.

**PRESIDENT NISBET:** General orders of the day. The Chair recognizes Mr. Martin.

**MR. MARTIN:** Mr. President, I move the convention resolve itself into committee of the whole for consideration of matters on the general orders calendar.

**PRESIDENT NISBET:** The question is on the motion of Mr. Martin. Those in favor, say aye; those opposed, no.

The motion prevails.

[Whereupon, Mr. Martin assumed the Chair to preside as chairman of the committee of the whole.]

**CHAIRMAN MARTIN:** The committee will come to order. The secretary will read.

**SECRETARY CHASE:** Item 2 on the calendar, from the committee on finance and taxation, by Mr. Brake, chairman, **Committee Proposal 39**, A proposal with reference to the earmarking of sales tax revenues covering the subject matter of section 23 of article X of the 1908 constitution.

*For last previous action by the committee of the whole on Committee Proposal 39, see above, page 785.*

Several amendments have been considered. The amendment immediately on file for consideration at this time is the one by Messrs. Hodges, Ford and T. S. Brown as follows:

1. Amend page 2, line 23, after "property" by inserting a colon and "Provided however, That no sales tax shall be levied on foods or medicines".

**CHAIRMAN MARTIN:** Mr. Hodges.

**MR. HODGES:** At yesterday's debate I was somewhat overwhelmed by the amount of concern expressed by many individuals for persons paying taxes on food and drugs. I, myself, share that concern. I believe this is a matter of morality and ethics. To me there is something immoral about taxing the very life substance that individuals depend on. I think we all know the factors involved, the question of the unfair regressive nature of a sales tax, to begin with, but when you lump upon it by taxing food, which hits those that are unemployed, those of low income groups equally as hard, just about, as the most wealthy citizens of our state, we can see that this is a tremendous burden on the low income groups.

Now, many individuals here express their concern, and I would hope they would vote for this amendment. I am sure somebody is going to get on the floor and point out that this is restrictive of the legislature and therefore they could do it, and why don't we leave this to them. I merely point out that this is directed at a restrictive—already restrictive—part of this article which has a limitation on the 4 cent sales tax. All this does is further restrict it in terms of putting it on food and drugs. I might also add that I would hope that those that are advocating flexibility, if they can't see their way clear to voting on this amendment, would then also vote down the 4 cent sales tax limitation and, much more importantly, the prohibition of a graduated income tax.

I think, in the name of honesty and sincerity, those that advocate absolute flexibility should feel constrained to do so.

However, if they do feel that it is proper to put some limitations upon what should be taxed and what should not be taxed, and especially for those that advocate a prohibition and a graduated income tax, I ask you to give some thought to those at the other end of the scale who, through no fault of their own, are not in a position to pay the taxes they are asked on the very most essential things in life. Mr. Chairman, I move the adoption of this amendment. I am sorry. That is out of order. I recommend it.

CHAIRMAN MARTIN: Mr. Staiger.

MR. STAIGER: On behalf of the committee, I am sure we would oppose this amendment. I think that there is an honest difference of opinion in the committee and on the floor. If food and drugs should be exempted, I think it would certainly be or should be almost unanimous in the consideration that this is not something that we want to try to fix for 50 years into the constitution. We are talking here about a complicated tax structure of the state of Michigan, and to knock out one item—freeze it out at this point—just is not good government. We have cleared the way so that the state can in any revision exempt food, if it is going to levy other broad base taxes. This is not the place, and it is in no way appropriate to put such an exclusion into the constitution.

CHAIRMAN MARTIN: Mr. Hodges.

MR. HODGES: Mr. Chairman, may I answer that?

I would only ask Mr. Staiger if he voted for the 4 cent limitation on sales tax, and if he also voted for the prohibition on a graduated income tax, and ask him if this is not inconsistency and tying the hands of the legislature for the next 50 years.

MR. STAIGER: Well, we left the 4 cents in there. I was one of the minority that was willing to take it out. On a graduated income tax, yes, I did vote against the prohibition on that. And I think when we get to that we will be able to develop reasons for that. I don't think that the same reasons apply here, and I cannot see any reason for freezing such an exemption into the constitution.

MR. HODGES: But you can concerning the graduated income tax; is that right?

MR. STAIGER: When we get there, I will meet that issue for you.

MR. HODGES: Then it is whose ox is being gored, is that right?

MR. STAIGER: I don't think this—excuse me, Mr. Chairman.

CHAIRMAN MARTIN: The question is on the Hodges amendment. Mr. Ford.

MR. FORD: Mr. Chairman, as Bob has already indicated, I don't think that there is any student of taxation who has not been told, or anyone who has taken basic economics in college, who has not read that we are talking about perhaps the most regressive form of taxation that was ever devised for the public. This has been recognized ever since sales taxes first came into vogue in this country, and it has also been recognized that taxes being something in the nature of a necessary evil or a necessary burden, that you have to rationalize certain taxes and rationalize inequities of them, and that is what we do every time we raise the sales tax a little bit. We rationalize as we go out and tell people that they ought to vote for the sales tax because, after all, it is painless. You don't have to fill out a return at the end of the year. You don't have to go to a lot of trouble. It is cheap for the state of Michigan to collect it. They are already collecting 2 cents; why not 3? Three; why not 4, and on ad infinitum. So finally we reach a point where we say, provided, however, that there shall be no tax of this kind in excess of 4 per cent. The question comes up, however, why no more than 4. Why not more than  $3\frac{1}{2}$  or  $4\frac{1}{2}$ ? The answer is that the taxation committee is faced with the realities of life that although we started out with a regressive tax and it has been no less regressive, the tax has reached its saturation point.

Now, a lot of people in this convention have been talking about the urgency and the need for tax reform, and this suggested constitutional amendment would, in the opinion of those

who originally put it in as a delegate proposal and last night revised it after we heard people like Mr. Van Dusen expressing their concern for the possibility of doing this, and what we took to be their preference for being able to do this in the near future as a part of an overall tax reform program, this encouraged us and we revived it in the form of this amendment. Now, I am informed that what this would amount to at the present time would be a reduction in sales tax income of approximately  $\frac{1}{4}$ . This would have the almost immediate effect, if we leave the earmarking as it is, of giving a form of relief to a segment of the population that would remove from the tax pot that last penny that was put on. The tax would stay the same, but the net effect to the general fund of the state of Michigan would be affected in the same manner as removing the last penny. There is no sense in anybody assuming that by giving this sort of tax relief we are not going to take a serious bite out of the general fund.

Who are we talking about taking care of? Starting out with a regressive tax, we make it even more regressive when we are one of the states that makes no exception for the basic necessities of life. Mr. Staiger has indicated that he would object to this sort of a provision being in the constitution because he says: why freeze in, for the next 50 years, this sort of a restriction? Well, I submit to you that if there is anyone in this room who can come up with the wildest possible dream that will say that we are going to have something to replace the necessity for food, regardless of your condition and status in life, in the next 50 years, then I will ask my cosponsors to withdraw this amendment. I think that we are here talking about something that is as constant as life and death. I know that we are going to have the same needs in the next 50 years.

The one possible change would be in some tremendous miraculous conversion that would result in the people of the state spending an infinitesimal amount of their total income for food. This is not the case, however. The vast majority of the people in the lower income levels spend a major portion of their money for food, for the basic necessities of their families, and one of the places that they take the biggest single bite out of their weekly budgets is in the grocery store. Now, we say that we want to encourage industry, so we exempt property to be used in industrial processes. We say we want to encourage agriculture so we exempt products to be used in agriculture, and then we turn around and tax those products at the consumer level, and in many instances, tax them in such a fashion as to impose unfairly and unjustly on people who can ill afford it, a percentage reduction of the effective tax dollar that they have for necessities.

Who does it hit the hardest? One of the delegates yesterday was talking seriously about the plight of the people with a fixed income, and when I think of the people with a fixed income I think not only of the governmental employees who have relatively fixed incomes, but the people who really have fixed incomes, that is the pensioners. These people are living on dollars that were calculated several years ago, many of them; they are living on basic subsistence levels, and we are saying to them, "You have your home paid for, you have all of the other things you need, you are now at the age where your biggest expense is providing for food for yourself and your family, but we are going to continue taxing you at the same rate as all of the rest of us." This is not in any way recognizing what I think we inevitably have to come to in this convention, as they are coming to over on capitol hill, that whatever new tax form you come up with is going to have to, in some way, relate itself to the ability to pay that tax; that we can't keep levying taxes indefinitely without regard to the ability of the person against whom the tax is levied to pay the tax.

I think that Dr. Hannah came up with a phrase that I had not heard before he used it. He talked about the economically disadvantaged people in this state. I am not really sure that Dr. Hannah and I have the same definition in mind, but I think that we have many economically disadvantaged people in this state who are being further disadvantaged by continuance of the sales tax on food, and although the amendment in its present language is a little broader,

it was originally our intent to restrict it to prescription drugs, which I think is a distinction that everyone would perhaps grasp at immediately.

I think now we have a chance to determine whether or not we want to start the tax in fiscal reform in the state by saying to the legislature, "Here is a limit of 4 cents. You can't go further on this sales tax." Not only that, we are going to say to you that it is far past time that you take this off of food and prescription drugs and give this recommendation, and now you find a way to come up with a tax program that this state really needs.

There are many people in this room who are intimately familiar with various forms of a tax reform that are given very little consideration over there because it is much easier, over on capitol hill, to slide by by putting another penny on the sales tax, or putting a few cents on cigars and what have you, than it is to really face up to the problem. If you want to really give these fellows a chance to take the problem by the scruff of the neck and do something with it, let's indicate it. This is one way to do it.

CHAIRMAN MARTIN: Mr. Brake.

MR. BRAKE: Mr. Chairman, ladies and gentlemen, we are again falling into the very common error of judging a tax just by itself. That always leads to wrong conclusions. If the sales tax were our sole source of revenue, it would indeed be unfair, unfair to the little fellow; but it is not the sole source of revenue. If the property tax were the only source of revenue, as it was 50 years ago, it would be atrocious, but it is not the only source of revenue. The only way to judge a tax fairly is to judge it just as part of the entire tax system. One part of it may be too hard on the little fellow, another part of it may be too hard on the big fellow. To judge it fairly we need to see how it fits in, and when you take all of the taxes together, then is the little fellow unfairly treated, are the big fellows unfairly treated? Where do we need to make the change? To take out 25 to 30 per cent of the state's income from the sales tax without replacing it is simply out of the question.

In the constitution, we set out to lay down the broad rules within which the legislature must work. The time may come when the legislature is in a position to take the tax off of food and replace it immediately with something else. It should be left to them to do, not here.

CHAIRMAN MARTIN: Mr. Gover.

MR. GOVER: Mr. Chairman, ladies and gentlemen of the committee, and directing this to Mr. Hodges particularly, as a former merchant I would be remiss if I didn't call the attention of the committee to the complications involved in bookkeeping by taking part of your inventory out of taxation and leaving the other part in. Most of the smaller merchants are trying to operate as efficiently as possible within their budgets, and many of these items, when you exclude part of them from the tax and leave part of them taxed, requires more bookkeeping and more help. Of course, that makes more payroll too but it is one of those things that it is difficult for a small merchant to work with. I know at the time when I was in the store, certain agricultural articles were exempted — and they still are — and there was always a complication in keeping track of the bookkeeping on those things. Thank you.

CHAIRMAN MARTIN: Mr. Hodges.

MR. HODGES: Mr. Chairman, I appreciate Mr. Gover's concern for the merchants. I would only point out that other states do exempt it and they seem to be able to do it with the least amount of difficulty. It seems to me, when we measure the inconvenience of the merchants against the dire need of an unemployed person that is asked to pay taxes with no revenue coming in, this is a small price to pay, indeed. And as long as we are directing questions, I would just direct a simple question to Mr. Brake.

Sir, do you feel that any type of taxation on a person who has been unemployed through no fault of his own can, at all, be equitable?

MR. BRAKE: Everyone should contribute something to the support of his government.

MR. HODGES: Including those that have no revenue whatsoever?

MR. BRAKE: If they have no revenue whatsoever they are on welfare.

MR. HODGES: Well, I shouldn't bring this in, I suppose, but I have a father who is 59 years old who has been unemployed since March of 1961. He pays sales tax on food. He pays his property taxes, and yet, has exhausted even his unemployment benefits as of 6 months ago. Now, I realize that as the child of that parent I have obligations to him, but I also point out the unfairness of asking individuals such as this, who have worked for the same corporation in this state for some 27 years and have been laid off, through no fault of their own, to try to pick up the excess burden of taxation on the necessities of life.

CHAIRMAN MARTIN: Miss Hart.

MISS HART: Mr. Chairman, I have always been puzzled, and I would like an answer, if I could get it here. I teach in an area where large numbers of the parents of the children I teach are on welfare or on ADC, and I am always puzzled as to what the state gains or local government gains in giving these people money on which to live and then taking it back in sales tax.

CHAIRMAN MARTIN: Mr. Binkowski.

MR. BINKOWSKI: Mr. Chairman and ladies and gentlemen of the committee, I am glad that Mr. Brake brought up the question of the total tax picture because I would just like to quote 2 sentences from what I believe to be an impartial study put out by the institute of public administration of the University of Michigan, entitled *Taxation in Michigan, an Appraisal*, by Mr. Harvey E. Bretscher. I believe Mr. Bretscher is probably the best tax authority on Michigan tax structure and tax problems that we have. He said that Michigan's state and local tax structure appears to be substantially regressive in the income range up to \$10,000 and progressive thereafter. This characteristic is attributable to the heavy reliance upon general and selective sales taxes and the property tax and, for families with incomes in excess of \$10,000, the progressive impact of the federal tax system.

Therefore, it seems to me, coming from the area which I represent, consisting of a high proportion of people in the lower income groups, consisting of a great number of people who are unemployed, and consisting of a great proportion of people on fixed incomes — that is, pensioners — it seems to me that this amendment would lock into the constitution some tax relief for these people and therefore I would favor this amendment.

CHAIRMAN MARTIN: Mr. Upton.

MR. UPTON: I would like to say just a few words. The words this morning remind me of some of the arguments we had last night. We are trying to devise a program for complete tax reform. Just by taking out foods and drugs does not allow the legislature enough room to work in. If we took out the 4 per cent limit, let them, if they have to, take out foods and drugs but perhaps raise the sales tax limit to 5 per cent or 6 per cent on other items, you might have a program. But here again you are only talking about one thing. I think if we wish to give the legislature a complete package to work with we should look at all the facts and not just one angle. So I would oppose this particular amendment, but I think if you wish to go into a more complete picture perhaps we should tie this in with, maybe, taking off the 4 per cent limit. This would allow the legislature to adjust the tax picture in any year in which they would operate to the best advantage for all the people. So, again, we are getting into specifics when we should be looking into the general program of taxes.

CHAIRMAN MARTIN: Mr. Iverson.

MR. IVERSON: Mr. Chairman, I would like to ask the sponsors of this amendment if they propose to exempt the sale of foods in restaurants, taverns, other public places? Would someone answer that?

CHAIRMAN MARTIN: Mr. Hodges.

MR. HODGES: This is not my intention, Mr. Iverson, and I would hope that if this amendment is adopted, we would

write that into the report regarding it, and also guidelines for statutory implementation of what would be considered and not considered. I would not consider restaurants in this matter.

MR. IVERSON: Mr. Chairman, I submit that the amendment was submitted by the delegates and they must have intended to include food, which the proposers of the amendment and myself buy at the Jack Tar and other places.

MR. HODGES: This may seem rather heartless, Mr. Iverson, but I am not particularly concerned with people of your economic level in this taxation. (laughter)

MR. IVERSON: Mr. Chairman, incidentally, the same is true so far as Mr. Hodges is concerned. (laughter)

CHAIRMAN MARTIN: The delegates will please refrain from personal references to each other. Mr. Brown.

MR. T. S. BROWN: Mr. Chairman, it seems to me, as one of the signatories on this particular amendment, that the sole question we are really going to answer by our vote is whether or not the legislative tiger can be expected to change his stripes. We have had many fond hopes expressed, especially yesterday, when we entered upon this general subject matter, about the possibility—and yes, the probability—that the legislature in the coming session would overhaul the entire tax structure of the state of Michigan and come up with something that was more meaningful in our time. The proponents of this particular hope have also been encouraging us to free the hands of the legislature, to give them a little freer reign so that they may have more flexibility; I believe they used the words “flexibility to revamp this structure”. Now, too often, from my point of view, flexibility and freedom do not necessarily mean the intrinsic right to be left alone, but flexibility and freedom mean the intrinsic right to aggrandize yourself or your group at the expense of other people or groups, and this is why we have had the polarization of the philosophies on the matters in question.

Now, I don't think that we can reasonably expect the old legislative tiger to change his stripes and I think since Mr. Hutchinson has indicated, say, a week ago that we are becoming more and more like the legislature—and I hope not; I hope not, personally, but perhaps we are and perhaps I am contributing to that; it is a rather insidious process and I don't really know where we stand at this juncture—but, if we are the alter ego of the legislature, since we are a product of what I consider a malapportioned legislature, and we are therefore a malapportioned body, I think this particular vote on this matter will give an indication of whether or not the legislature can really, hopefully be entrusted to overhaul the fiscal structure of the state of Michigan.

CHAIRMAN MARTIN: Mr. Young.

MR. YOUNG: Mr. Chairman, I think Mr. Brake made a valid point when he said that we should consider the past structure as a whole. I have heard great concern expressed here about restrictions on the legislature. Now, as a member of the committee on finance and taxation, I will state that we are prepared to make 2 recommendations to this body, both of which have to do with restricting the legislature and both of which tend to give tax concessions to the so called “big guys”. One, the flat prohibition against a graduated income tax, and 2, the reduction of the assessment on all property, real and personal, to a 50 per cent level, as opposed to the ad valorem cash value in the present constitution.

Now, if we are willing to make these 2 restrictions on the legislature in relation to the “big guys”, it seems to me that we should be willing to make one concession, even within the recognized 2 to 1 relationship, to the little guys. I think 2 to 1 is only fair.

CHAIRMAN MARTIN: The question is on the Hodges amendment. As many as are in favor will signify by saying aye. As many as are opposed will say no.

A DELEGATE: Division.

CHAIRMAN MARTIN: Division is called for. Is the demand seconded? Sufficient number up. The secretary will read the amendment.

SECRETARY CHASE: The amendment offered by Messrs. Hodges, Ford and T. S. Brown is as follows:

1. Amend page 2, line 23, after “property” by inserting a colon and “Provided however, That no sales tax shall be levied on food or medicines”.

CHAIRMAN MARTIN: The question is on the amendment. As many as are in favor will vote aye and as many as are opposed will vote no.

SECRETARY CHASE: Has everyone voted? The machine is locked and the totals will be recorded.

MR. HODGES: Mr. Chairman, I request the chairman's vote.

CHAIRMAN MARTIN: The chairman votes no.

SECRETARY CHASE: On the adoption of the amendment by Messrs. Hodges, Ford and T. S. Brown, the yeas are 48; the nays are 79.

CHAIRMAN MARTIN: The amendment is not adopted. The secretary will read the next amendment.

SECRETARY CHASE: Mr. William F. Hanna offers the following amendment:

1. Amend page 1, line 24, after “property.”, by inserting “There shall be returned to the counties on a population basis, as provided by law, ¼ cent of a state sales tax levy on each dollar of sales of tangible personal property.”.

CHAIRMAN MARTIN: Mr. Hanna.

MR. W. F. HANNA: Mr. Chairman, in brief support of my amendment, it appears that the forgotten person or the forgotten local government in a state collected and distributed back to local government source of revenue is the counties, and I know of no other unit of government in which the state, by state law, imposes more duties and yet gives no state supported revenues. The county government is responsible, in a large measure, for welfare, courts, jails, sheriffs' departments and other services, all of which are dependent upon the population both within a particular county and throughout the state. And, while, due to our poorly organized county government, we have no direct spokesman for county government as such, in a legislative function, the members of the board of supervisors have a primary liability to the cities and townships first, and to their counties second. I believe that of all the units of government that need relief from the property tax burden to the small home owner, it is the county government. And therefore I feel that if we are going to continue the policy of a state selected nonproperty tax revenue, certainly the counties ought to share in the distribution, as my amendment will provide.

CHAIRMAN MARTIN: Mr. Brake.

MR. BRAKE: Mr. Chairman and ladies and gentlemen, there is no question but what there is force in what Mr. Hanna says, but the committee, as I recall it, is unanimously opposed to any additional earmarking. As you witnessed last night, there are many members of the committee that think we have altogether too much already. They are opposed to any addition to what we have.

CHAIRMAN MARTIN: The question is on the Hanna amendment. As many as are for, will say aye. As many as are opposed will say no.

The amendment is not adopted.

SECRETARY CHASE: Mr. Hutchinson offers the following amendment:

1. Amend page 1, line 22, after “villages” by striking out “on a population basis”; so that the language will then read:

There shall be returned to cities, townships and villages, as provided by law, ½ cent of a state sales tax levy on each dollar of sales of tangible personal property.

CHAIRMAN MARTIN: Mr. Hutchinson.

MR. HUTCHINSON: Mr. Chairman, in offering this amendment to strike out the reference to a population basis, as regards the formula for sending this money back to local units of government, I do it because I cannot understand how, if we say it must be on a population basis, the legislature could send it back on any other kind of a basis. It seems to me as though on a population basis, population is population. One of the problems that came up back in 1954 was whether it was really fair to send back to the township where the southern Michigan prison is located, or to the cities

and the townships where the various mental institutions are located, a sales tax attributable to the population of those institutions. You will note that the final decision back in those days was to split the problem in half and give them credit for only half of the populations in those institutions.

Now, if we adopt the committee recommendation here, it seems to me that we will be going back to the same situation that we had prior to 1954, and it doesn't seem to me to be a very good constitutional policy to so restrict, if you please, the matter in the constitution. If we send this back to cities, townships and villages, as provided by law, then, as conditions change and as times change and so on, we will have the necessary flexibility. Perhaps it should go back on a population basis. Perhaps it should go back on a need basis. Perhaps it should go back on some other kind of a basis that doesn't now occur to me, but if we permit those decisions to be made by statute law, this provision will not become obsolete as times change, but it can be accommodated to the times. This is, I believe, in the true concept of a constitution, to provide the flexibility. Just think what would have happened to the Constitution of the United States if it had been written in such restrictive language as we are writing into this constitution of Michigan. It would have been impossible of breadth and expansion, even by judicial interpretation.

I understand the wisdom of including this phrase, "as provided by law" in here, and I am led to believe that the committee thought that if we said "on a population basis as provided by law" that then the legislature would be able to define what "population" is. I disagree. I don't think that the courts would say that the legislature could define population, because population is quite specific. The legislature might be able to say as of what time the population shall be counted. In the old language it was on a decennial census basis. That might be unwise, and it might be that the committee's intention was that the legislature might provide by law for special censuses sometime within the 10 year period in order to readjust this distribution as populations change. But, nevertheless, we get right back to this: if you say "on a population basis", it has got to be according to a count of people. I submit that we walk right into the difficulty that we found ourselves in back in 1954 when, by the mere circumstances that the state government, in its wisdom, had placed certain large state institutions in certain communities, they were getting a vast amount of sales tax revenue back based upon the population in those institutions when, as a matter of fact, I think it is debatable, for instance, as to whether the population in both institutions really causes that much more demand for service upon the communities involved. Service to those institutions remains a state responsibility all the way through. It is for those reasons that I offer this amendment to strike out this phrase, "on a population basis", hoping that we will thereby have a truly constitutional flexibility and a constitutional provision which will be able to serve the state as the times and the needs and the conditions change.

CHAIRMAN MARTIN: Mr. Van Dusen.

MR. VAN DUSEN: Mr. Chairman, speaking on this matter for the committee, I think it's important that we all realize that Mr. Hutchinson's proposed amendment does make a major substantive change. As he points out, if the words "on a population basis" were stricken, the legislature would have, then, complete authority to determine how the half cent of sales tax earmarked for cities, townships and villages should be allocated, and they could allocate it all to one city or all to another, depending upon the exigencies at the moment.

This is a major substantive change, one that the committee on finance and taxation was unwilling to make. The changes which we have recommended are those which, in our judgment, clean up the mechanics of the system of distribution, and let me just outline for you a little bit of the history which motivated this change. We have seen in the course of the last 10 years, the 10 years between the 1950 decennial census and the 1960 decennial census natural shifts in population, particularly in the metropolitan areas where we have

seen moves out of the core city into suburban communities. As a consequence, along about midpoint between the 1950 decennial census and the 1960 decennial census, some communities were getting much more than their share on a population basis. Others were getting much less than their share, but because of the inflexibility built into the present constitutional language, nothing could be done about it in the absence of a special federal census. As a consequence, we felt it was highly desirable to let the legislature have the freedom to deal with the situation so that population could be counted on a more current basis than the present constitution would permit.

It's not, I believe, correct to say that population means just population and nothing else, as Mr. Hutchinson suggested. I think the present constitution which takes 10 lines or upwards of that of your proposal to define population, belies the statement and indicates the desirability of leaving this matter up to the legislature to determine what is population, where the population is, and when. Any of our 56 lawyers knows the difficulty of defining domicile and residence. This is an inherent problem in the determination of where the population is at any given time. It is one we feel ought to be left to the legislature.

CHAIRMAN MARTIN: Mr. Downs.

MR. DOWNS: I rise to speak both in favor of and against the Hutchinson amendment. (laughter) I believe I am in complete agreement with the objective he speaks about, that the populations in the state institutions should not be included in sales tax diversion. If he would rephrase the amendment to use such term as "populations excluding those in state institutions", "populations who are residing on a voluntary basis", or some other such term, I would be in complete agreement. However, when he strikes the whole term "on a population basis," I am afraid we may be throwing out the baby with the bath.

Without making a prolonged speech, I think we should review, just for a minute, the history and the reasons that we got this earmarking provision in. Speaking very candidly and frankly, one of the reasons was to bypass the legislative process and, in effect, to use earmarking and constitutionally raised and allocated money to both raise revenue and to distribute it. Without being too cynical, I am very concerned that unless there is a legislature based on population, there may not be a distribution based on population. And if the convention is willing to postpone this question until the legislative organization committee has reported, I would be very glad to review it at that time. But unless the legislature is based on population, there is a real concern that the distribution will not be on population. For that reason, I would rather see the language stand as it is now, to guarantee the population distribution.

If it is in order, Mr. Chairman, I would like to amend Senator Hutchinson's amendment to provide that the term be reinstated and say "on a population basis, except for those in state institutions". I am sorry I haven't prepared that form but I just heard the Senator's amendment read, and I believe that would take care of the legitimate problem.

CHAIRMAN MARTIN: Mr. Downs, you are reinserting all of the language which he is proposing to strike out.

MR. DOWNS: No, I am doing more than that, Mr. Chairman.

CHAIRMAN MARTIN: You are adding some additional, I know.

MR. DOWNS: I am getting a different concept. It would then read "on a population basis, excluding those in state institutions", and I believe that is a different concept and not just reinstatement.

CHAIRMAN MARTIN: I wonder if you will defer your amendment to his amendment and then submit it as a separate amendment, if you wish to do so. I think we will get a fairer vote on the matter.

MR. DOWNS: All right, I will do so.

CHAIRMAN MARTIN: Mr. Hoxie.

MR. HOXIE: Mr. Chairman and fellow delegates, I am in complete accord with what Mr. Hutchinson intends by his



amendment. I also see certain dangers that might arise, as pointed out by Mr. Van Dusen, in opposition to this. I am happy that Brother Downs is both for and against, and there is an amendment on the desk, Mr. Downs, which, I think, will satisfy you and give all the protection that Mr. Van Dusen thinks there should be.

**CHAIRMAN MARTIN:** The question is on the Hutchinson amendment. Mr. Staiger.

**MR. STAIGER:** I would just like to point out that we are getting into the question of drafting again. The committee, as stated by Mr. Van Dusen, feels that this language does provide for the flexibility the legislature needs to exclude partially or completely wards or people in state institutions. This is our intent. We think that it does provide for this. Now we are getting into a question of if the language adequately provides for it, and the interpretation. This is a matter that is drafting and if there is a question on this, let's leave it to the style and drafting committee to take a look at. There is no question as to our intent here, we are arguing over the meaning of words and this is something that style and drafting, I think, would adequately take a look at and bring back at second reading. I would oppose the Hutchinson amendment and the Downs amendment.

**CHAIRMAN MARTIN:** The question is on the Hutchinson amendment. As many as are in favor will say aye. As many as are opposed will say no.

**A DELEGATE:** Division.

**CHAIRMAN MARTIN:** Division is requested. Is the demand supported? The demand is not supported.

The Chair rules that the amendment is not adopted.

**SECRETARY CHASE:** Mr. Hutchinson offers the following amendment:

1. Amend page 2 by striking out all of lines 21, 22 and 23, which read, "At no time shall the legislature levy a sales tax on retailers at a rate of more than 4 per cent of their gross taxable sales of tangible personal property."

**CHAIRMAN MARTIN:** Mr. Hutchinson.

**MR. HUTCHINSON:** Mr. Chairman, I now rise on a matter of principle. I commend the committee of the whole and the standing committee which reported this matter in striking out any reference to a base. Now if we really wanted to do the kind of a job which in my opinion, at least, good constitutional practice requires, we should also strike out the reference to a limitation upon rate. If there is anything that is short sighted it is to so restrict and hobble the sources of taxation, either as to trying to define the tax base or the tax rate, that you eventually force the particular source to—well, not exactly dry out, but it becomes inadequate. There are only 3 types of taxation, as has already been pointed out on this floor before; you can either tax property, or you can tax the transactions upon property or you can tax the income of property, and if the constitution so restricts all 3 of those sources of taxation, then I wonder just exactly how we, as a state, are going to be expected to meet our responsibilities.

I think that when we write the limitations of tax rates and tax bases into the constitution, we contribute to the people running down to Washington and asking the federal government to do that which they cannot do themselves because they are financially unable to do it. This is a matter of principle with me. I offer this because I felt certain that, just as I always had in the legislature at every opportunity, I would do it here too to try to remove from this constitution those matters which are so restrictive that it ends up with our not having the tools sufficient with which to meet not only the problems of today but the problems of the future.

**CHAIRMAN MARTIN:** Mr. Brake.

**MR. BRAKE:** Mr. Chairman and ladies and gentlemen, this brings us again to the direct clash between theory and public acceptance. The people established this 4 cent limit in November of 1960. I wonder if there is anyone in this committee who thinks that the people would have voted favorably on that proposition had there been no limit, simply authorizing the legislature to raise the sales tax.

**CHAIRMAN MARTIN:** Mr. Farnsworth.

**MR. FARNSWORTH:** Mr. Chairman and members of the

delegation, it is not often, of course, I find myself in disagreement with my colleague from Allegan county, Senator Hutchinson, but I do have to take issue with him on this, not as a matter of principle but as a matter of personal experience. It so happens that the commodity that I make my living at in the retail sales business is subject to what you might call a sales tax at the federal level. They happen to call it an excise tax. It was one of those taxes that was put on in world war I as a temporary measure. Now it so happened that that continued until Andrew Mellon was secretary of the treasury and it was taken off on the basis it was no longer needed. That particular tax stayed off from this commodity for almost 6 months. The Hoover administration found it necessary to put it back on on a temporary basis at 3 per cent. That temporary 3 per cent tax grew to 7 per cent during the Roosevelt administration. It grew to 10 per cent during the Truman administration. It remains today at 10 per cent. Now, after you have lived through a personal experience of that kind—taxation on a commodity that you are handling—you most certainly, not as a matter of principle but simply as a matter of personal experience, must insist on keeping the 4 per cent limitation in, insofar as the state's ability to tax any retail sale. I oppose the amendment.

**CHAIRMAN MARTIN:** The question is on the Hutchinson amendment. Mr. Madar.

**MR. MADAR:** As I said yesterday, I always want to make sure that when we are getting information on anything, to always make sure that we get good information and get every bit of it. We must also remember that that tax remained for 8 years while Eisenhower was president.

**CHAIRMAN MARTIN:** The question is on the Hutchinson amendment. As many as are in favor will say aye. As many as are opposed will say no.

The Chair rules that the amendment is not adopted.

**SECRETARY CHASE:** Mr. Faxon offers the following amendment:

1. Amend page 2, line 1, after "school districts" by striking out "2" and inserting "2½"; so the language will then read, "There shall be set aside for the school districts 2½ cents of a state sales tax levy on each dollar of sales of tangible personal property."

**CHAIRMAN MARTIN:** Mr. Faxon.

**MR. FAXON:** Mr. Chairman and fellow delegates, yesterday Mr. Danhof raised a very good question with regard to whether the base was an adequate support for education. Mr. Staiger, Mr. Upton and other members of the finance and taxation committee made the point that the present 2 cents is not an adequate base of support and that it is necessary for supplemental funds to be provided by the legislature. I don't want to belabor this point. I simply wish to, first of all, indicate that the additional ½ cent would provide an adequate basis of support in line with, I think, what the people intended back in 1946 when they first put this amendment into the constitution. At that time the 2 cents was considered an adequate amount of support. It worked for a few years, then it was not. If we really want to update the 2 cents to an actual figure that would be more practical in terms of the cost of education, we would raise it to 2½ cents. Also, I thought of this amendment with regard to the fact that we remove the 1946 base, which, by adding the extra ½ cent, would insure the making up of the deficiency of funds that might occur if the base were changed. But, in view of the comments that have been expressed, I would like to withdraw this amendment and wait for another one to speak on, Mr. Chairman.

**CHAIRMAN MARTIN:** The amendment is withdrawn.

**SECRETARY CHASE:** Mr. Hoxie offers the following amendment:

1. Amend page 1, line 24, after "property" by inserting a colon and "Provided, There shall be excluded from such population basis of computation 50 per cent of the total number of persons who are wards, patients or convicts committed to or domiciled in any city institution located outside the boundaries of said city or committed to or domiciled in any county, state or federal tax supported institution, provided such persons were included in said federal census".

CHAIRMAN MARTIN: The question is on the Hoxie amendment. Mr. Hoxie.

MR. HOXIE: Mr. Chairman and fellow delegates, this amendment was proposed to cure a situation that the legislature found itself in when they submitted this amendment to the people in 1954. I might say that I have talked to the chairman of the finance and taxation committee, called this to his attention, and my fears as to what the end result would be, of the wording as we have it in the proposal.

For a little history—which I think the delegates might consider—prior to the census of 1950, the populations of our various institutions were counted in the place from whence they came. In other words, their residence. But with a change of the rules of the census bureau, those individuals confined in our state institutions were counted and credited as residents of that particular community. For instance, at Jackson prison we had located in Blackman township some 6,000 people and Blackman township, of course, got a bonanza. But you must remember that in the distribution of this money, when you siphon off those individuals living in those areas where they do have a state institution, then you are penalizing all the other units of government in the state of Michigan.

My conclusion, in reading this proposal referring to a population basis—and I don't know of any other basis that you can take than the federal census as a basis for distribution of this money—then we are right back, in my opinion, where we will be distributing to such places as Blackman township, Traverse City, because of the location of the Traverse City state hospital, and so forth, money which, in my opinion and in the opinion of the legislature, when we submitted this amendment, they were not entitled to or there was no way that you could consider that they should, with any degree of justice, receive.

I also might advise you that there was considerable argument in the legislature whether they should be given any special treatment because of the location of that institution. It was a compromise. We did reduce it from a complete count to a 50 per cent, and perhaps that could be justified on the basis that where those institutions are located they do take off from the tax roll that property that's owned by the state. So I think if you want to be careful, if you want to be sure, I think there is only one way that you can do it and that is by the adoption of the amendment I have offered. I don't think the legislature or the courts, in interpretation of this language, can draw any other conclusion but the population basis will be on the basis of the census, and I certainly urge you to adopt this amendment, if for no other reason than to make sure that we clarify the intent of this constitutional convention. I would like to also add that in the comments in relationship to this proposal there is no mention of this important phase or factor of our proposed amendment.

CHAIRMAN MARTIN: Mr. Staiger.

MR. STAIGER: Speaking again on behalf of the committee, we would oppose this amendment. I think that once more we are getting back into specifics and putting specifics back into the constitution. If we are going to worry about how we count inmates of institutions, how about the problems of students attending universities? They count patients at hospitals for long terms. How are they going to be counted? All of those things do create some inequities in where we are going to count them. This is best, in the judgment of the committee, left up to the legislature. As Mr. Van Dusen indicated earlier, we feel that as we provided on a population basis, as provided by law, gives the legislature the freedom to determine where these individuals shall be counted.

The prior language did tie in the federal census, and so, under the present section, as it now stands in the 1908 constitution, there was no question that they are bound by the determination of the federal census. This we have not tied in with the federal census. We have said "on a population basis as provided by law", not tying it into the federal census. We feel that this gives the legislature the leeway, the freedom to decide all of these problems, and there are many more too besides the question—which is actually a small part of the overall part of it—of inmates in state institutions.

CHAIRMAN MARTIN: Mr. Hubbs.

MR. HUBBS: Mr. Chairman, ladies and gentlemen, generally speaking, I rise also to speak against the Hoxie amendment for basically the same reasons that Mr. Staiger just mentioned. I would like to say, however, I also have an amendment which I think will accomplish the purpose that we want to accomplish. If it will be in order, I will withdraw until we have voted on the Hoxie amendment.

CHAIRMAN MARTIN: Mr. Hoxie.

MR. HOXIE: I would add just one remark in answer to the question that has been raised. My interpretation—and I think the interpretation of a majority of the lawyers—would be that this only indicates, as it is now worded, "There shall be returned to cities, townships and villages on a population basis, as provided by law". In other words, it is descriptive of the fact that this money is returned to the towns, cities, and villages on a population basis. To me, there is only one interpretation that you can make when you refer to a population basis—I don't know, as I said before, how the legislature could, by law, arrive at any other basis of population than by the census. The descriptive words "as provided by law" would be the method whereby this money is distributed back to local units of government. So consider it carefully, gentlemen, because I think you are going to make a bad mistake if you don't define this in some manner so that it is settled as to how this money is to go back, as far as the population factor is concerned.

I see Dr. Anspach looking at me. This in no way affects educational units of higher learning.

CHAIRMAN MARTIN: The question is on the Hoxie amendment. As many as are in favor will say aye. As many as are opposed will say no.

The amendment is not adopted. The secretary will read the next amendment.

SECRETARY CHASE: Mr. DeVries offers the following amendment to Committee Proposal 39:

1. Amend page 1 by striking out all of lines 21, 22, 23 and 24; and on page 2 by striking out all of lines 1 through 13.

CHAIRMAN MARTIN: Mr. DeVries:

MR. DEVRIES: Mr. Chairman, I offered that amendment on Friday and I was not here yesterday when, I understand, you discussed the intent of the amendment. This would do away with the earmarking of the sales tax for schools and local units of government. I wanted to be on the record for this, and I withdraw the amendment at this time.

CHAIRMAN MARTIN: The amendment is withdrawn. The secretary will read the next amendment.

SECRETARY CHASE: Messrs. Austin, Binkowski, Ostrow, Pellow, Stopczynski, Walker and Young offer the following amendment:

1. Amend page 2, line 7, after "law.", by inserting "For this purpose there shall be allocated from these funds, to such public school employees' retirement systems as shall be in effect from time to time under the laws of this state, not less than 7½ per cent of the salaries of school district employees participating in the respective retirement systems."

CHAIRMAN MARTIN: Mr. Austin.

MR. AUSTIN: Mr. Chairman and ladies and gentlemen of the committee, I am reminded of an admonition of Sam Ostrow last night about the horse that went to drink too often. I hope that I am not talking on this subject too often, but I do feel compelled to raise this one last issue. I am also impressed with the remarks of Dr. Hannah, when he said that when we voted for the highway earmarking, we had passed the point of no return on this question of earmarking. I am also impressed with the remarks of Dr. Nord, when he stated that this question of earmarking, particularly for schools, is not a question of, necessarily, a principle, but one of expediency. These provisions were written into the constitution to provide some guarantees. And also of Mr. Brake when he said we can't overlook the practical aspect of the problem of earmarking.

I am also impressed with Committee Proposal 40, which in effect provides for a contractual relationship for the beneficiaries of retirement funds and also provides for current funding of the benefits of these funds on an actuarial basis. I believe that

Committee Proposal 40 was desirable and I am quite pleased, as the rest of the delegates are, that we were successful in getting this convention to approve that proposal, because it not only provides a better arrangement for the school retirement funds, but also for all public retirement funds. There is one other aspect of this which we have got to consider and that is although Committee Proposal 40 provides for a contractual relationship, and also requires that current benefits be funded currently, there is still no assurance that the legislature will provide the money.

Section 23, as presently drawn, does provide for a minimum amount of contribution to the school retirement funds, and we are seeking to retain some minimum guarantee out of this earmarking. The committee on finance and taxation has recognized the bare minimum aspects of present provisions. It should follow that any weakening of this minimum guarantee jeopardizes the system. Even the requirement in the constitution of funding accruing liability during a fiscal year is, in effect, to risk shifting of presently guaranteed legislative responsibility.

The sponsors of the amendment, seeking to retain a minimal percentage provision and to support public school employment retirement systems, urge consideration of the following. This is not an earmarking of funds, it is merely a segregation of funds already agreed on to retain such earmarked funds. It does not add one cent to earmarked funds; it merely retains the status quo of the agreed on earmarking.

Involved is the security of 130,000 school employees. Both retired and active school employees have a stake in this item. They need assurance that their contributions and their right to a retirement allowance have, at least, a basic security. Placing a contractual relationship on service is not enough. This is fine, but it does not provide money with which to finance the contract. Providing that the legislature shall finance current service on a current basis is not enough. In itself, it is good. It should be extended to cover the past service of persons still in service, and all the service of persons already retired. If this isn't done, the actual provision is not as good as the one now in the constitution.

Even with full financing of all service and constitutional provisions, the constitutional provisions should be kept. Providing that the legislature shall do certain things does not constitute doing them. No one can mandamus the legislature. To remove the present guarantee without providing a better one is to pull the rug from under the security of school employees. The present guarantee should be kept as a base, with improved provisions to assure adequate financing within a reasonable time. The new constitutional guarantee does not conflict with providing adequate financing, and this point should be made clear: there is no conflict between what is requested here and the provisions of, I think, Committee Proposal 40.

The present provision merely states—or at least the recommended provision merely states—that 7½ per cent of school district payrolls shall be allocated from already earmarked funds to the retirement systems of school employees. This does not preclude additional provision for the retirement system from the general fund and is not at all in conflict with proposals for additional financing. It merely seeks to retain a basic, even though inadequate, financing until a better basis is provided. There is no need to destroy this basic assurance for 130,000 school employees. This does not provide additional or new constitutional guarantees for a special interest group. The money is already earmarked in the school aid fund. The persons served are the same persons for whom earmarking has been approved, and the same money is involved.

Retirement is deferred salary. School aid money is used for salaries, and the portion segregated for the retirement system is merely a division of that money already provided for the salaries, so that a portion of it will be paid as deferred salary on retirement allowances. A review of the history of financing for the Michigan school employees' retirement system discloses that the legislature has shown a reluctance to appropriate to meet current funding requirements. Before adoption of the 1954 guaranteeing amendment to the constitution, the legislature had never appropriated more than \$9 million in a single

year for school employees' retirement. Under the provisions of the guaranteeing amendment, the school retirement system received over \$38 million in fiscal 1960-61. At no time has the percentage provided been sufficient to meet the obligations of the fund. However, it has been a better basic financing than the system ever had before. It is not enough but it should be improved, not discarded. It provides a base and psychological reassurance which is vital at present. To remove the base of that for retirees is hitting below the belt. I move that this amendment be adopted.

CHAIRMAN MARTIN: Mr. Staiger.

MR. STAIGER: Speaking on behalf of the committee, I would like to point out, first, that we are now, on this question, leaving the field of education and talking about employees. In this field I submit that educational employees should not be any different than any other state employees. This amendment would single out for special treatment educational employees and give them something over and above the broad general provisions which the committee has recommended and which we feel adequately provides the fundamental guarantees that are needed for our present retirement systems. That section has already been passed by this body. We see no reason to single out the educational employees, as such, for something over and above this. For that reason we oppose it.

Also, tracing the history of how this came into the constitution, section 23, as we pointed out earlier, was a multiple issue amendment to the constitution. It was either take it all or not at all. This was one small section of the whole package. It did pass by a substantial majority but to say that this one section was something that the people were in favor of or opposed to is just impossible to do at this time. We feel that this language can be taken out now. We have provided that 2 cents can be used for teachers' retirement systems but, with the broad general guarantees that we have already provided, we do not feel that we have to be this specific in this section of this constitution.

CHAIRMAN MARTIN: Mr. Bentley.

MR. BENTLEY: Mr. Chairman, I must confess that I am a little puzzled by the remarks and inference left by the distinguished gentleman from Detroit, Mr. Austin. Last week we passed Committee Proposal 40 which, in its second paragraph—referring to these accrued financial benefits—said specifically:

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.

In supporting reasons from the committee on finance and taxation, they stated, and I quote:

... we have provided for these 2 systems, and all others—state or municipal—a requirement that in each fiscal year the accruing liabilities shall be funded during that year, thus keeping any of these systems from getting farther behind than they are now.

My question to the gentleman from Detroit would be: since I understood that both Committee Proposal 40 and the supporting reasons had the pretty much unanimous support of the committee on finance and taxation, and since it was stated several times during the discussion of this section that this would absolutely require the legislature, beyond any shadow of a doubt, to provide for current liabilities or current funding, as they may arise, the gentleman's amendment now would seem to indicate that he and others have doubts that Committee Proposal 40 and the supporting reasons mean what they say, and they want to write in a supporter to further strengthen it. Is that a correct interpretation, Mr. Austin?

CHAIRMAN MARTIN: Mr. Austin.

MR. AUSTIN: That is a correct interpretation. There are 2 contingencies involved. I should mention, first of all, that according to section 2 of the present constitution, the legislature is required to levy sufficient taxes to pay the estimated expenses of government. This the legislature has not done. Even though there is a requirement in the constitution that the legislature do certain things, it has not always done them. You cannot mandamus the legislature. That is my first point. Even though Committee Proposal 40, which was highly desir-



able, states that these accruing benefits should be funded on a current basis, there is still no assurance that the legislature will do it.

Secondly, it is within the legislature's power to shift the burden of responsibility, if it desires to do so, back to the school districts. What we are seeking to do is merely guarantee in the constitution what is already there, that at least 7½ per cent of the payrolls be earmarked or set aside from the 2 cents of sales tax that is earmarked.

CHAIRMAN MARTIN: Mr. Bentley.

MR. BENTLEY: Mr. Chairman, if I can respond again to the gentleman; in the first place, as I recall the discussion of last week there was no positive assurance that the entire amount—and I believe the figures quoted were 11¼ per cent outstate and 15½ per cent in Detroit—there was no positive assurance given that the entire amount might not conceivably come from the school districts, although it was deemed unlikely, and I agree with that interpretation. But secondly, Mr. Chairman, it seems to me that we have reached a point in our discussions here which goes far beyond the scope of the Austin amendment, and that is to the effect, is it possible for this convention to write anything into the constitution which will absolutely require the legislature to take certain actions or, if we are to agree with the remarks of the gentleman from Detroit, Mr. Austin, since we can't specifically force the legislature to do anything in this constitution, have we got to review all of our actions and require, in every particular case, some compelling reason that the legislature could not ignore, even if it so desired. It seems to me that that is what we are up against at this point.

MR. AUSTIN: I don't believe we are attempting to go quite that far. All we are attempting to do is say that this money shall be used for this purpose, just as we are saying that gas and weight taxes shall be used for highways. We are saying that 2 cents of the sales tax shall be set aside for schools, of which a certain portion is for retirement. Now, when we earmark these items, it simply means that the legislature shall not spend these moneys for another purpose. We are not actually trying to mandamus the legislature. We are confessing that we can't mandamus the legislature, we merely want to earmark this money.

MR. BENTLEY: Nevertheless, Mr. Chairman, I submit to my distinguished friend that what we are actually doing, if his amendment were adopted, is to say that we have already written in a specific proviso that the legislature shall do thus and so and then we are saying in effect, "We still don't trust you and we are going on and making sure you do it by putting in a separate earmarking provision."

CHAIRMAN MARTIN: Mr. Van Dusen.

MR. VAN DUSEN: Mr. Chairman and members of the committee, just a few more comments on this in support of the committee proposal and in opposition to the amendment. As Mr. Staiger pointed out, this committee of the whole last Friday adopted a general proposal with respect to public employee retirement systems, which is broad in its application and covers all public employees, whether they are employees of the state or of a school district or of a municipality. That being the case, it seems not only unnecessary but undesirable to single out one category of public employees—public school employees—and make a specific provision for them in the constitution. If you are going to make specific provision for public school employees, why not specific provision for policemen, for firemen, for probate judges, for circuit judges, for any other category of public employees whose security is no less important than that of the category we are now talking about. In other words, because we have adopted a broad and general proposal, it seems highly undesirable to tack on a specific one for one category.

Second, I think it was very generally agreed last Friday that the broad proposal is a good and desirable one which provides first a contractual right on the part of public employees to receive their deferred compensation, and second, mandates the legislature to currently fund the pension system so that that money will be available. The proposition which is em-

bodied in this amendment is admittedly, by its sponsors, inadequate, and what I submit they suggest is that having put a Buick in the front yard they now want to keep the horse and buggy in the garage just in case. I think that is undesirable.

Finally, I would simply point out what should be obvious, that this is simply earmarking on top of earmarking and if earmarking in the first place is not desirable, as Dr. Nord pointed out last night, earmarking on top of earmarking is even less desirable.

CHAIRMAN MARTIN: Mr. Tubbs.

MR. TUBBS: I concur with Mr. Van Dusen, Mr. Chairman. I am not very facile with figures, but I would like to give Mr. Austin just a few. Since he is an accountant, I am sure a few more won't bother him a bit. I understand from latest available figures that we are increasing our school population approximately 50,000 pupils a year. That means we will have 2,000 new teachers a year with approximately 1,700 new classrooms a year, and total employees of 2,210 a year getting salaries of approximately \$10 million or \$11 million a year, 7½ per cent of which is about \$828,000. If this is supposed to be an amendment for schools, the employees soon are going to crowd the schools out of the picture.

CHAIRMAN MARTIN: Mr. Austin.

MR. AUSTIN: Mr. Chairman, several remarks have been directed to me and I think I would like to respond with some figures. I would like to quote just a few figures that indicate what the legislature has done for the state retirement fund over the past few years. In 1945 or fiscal '45-'46 the legislature appropriated \$2,500,000 for pensions; in 1946-47, \$2,500,000; in 1947-48, \$3,800,000; in 1948-49, \$6,400,000; in 1949-50, \$6,500,000; in 1950-51, \$8,600,000; and in 1951-52, it dropped back to \$4,800,000; 1952-53, \$4,500,000; 1953-54, \$4,500,000; and in 1954-55, \$4,600,000. And then following the Conlin amendment, which was passed in 1954 and provided for earmarking of sales tax for school retirement, this same fund received \$11,842,000; in 1956-57, \$14,700,000; in 1957-58, \$20,700,000; in 1958-59, \$26,850,000; in 1959-60, \$26 million; and in 1960-61, \$36 million. These are the amounts that have gone into the school retirement fund since the diversion amendment was enacted—or let's say the Conlin amendment in 1955. Now, were it not for the Conlin amendment, I think we would all agree that the amounts that the legislature in all probability would have appropriated would have ranged around \$6 million for this fund.

CHAIRMAN MARTIN: The question is on the amendment. Mr. Anspach.

MR. ANSPACH: Mr. Chairman, I would like to direct a question, if I may, to Mr. Van Dusen. It has to do with the reference to the fact that in this case the teachers be a preferred group. Isn't it so that some of the retirement funds of the state were funded from the first? If so, where are we a preferred group?

CHAIRMAN MARTIN: Mr. Van Dusen.

MR. VAN DUSEN: Mr. Chairman, I think there are only 2 of many public employee retirement systems which on any actuarial basis have been properly funded from the start. Most of the public employee retirement systems of the state are not much better funded than those of the teachers. In particular, the municipal employees' retirement systems, as witnessed in recent litigation in Detroit, are not properly funded and are not being properly funded currently.

CHAIRMAN MARTIN: Mr. Binkowski.

MR. BINKOWSKI: Mr. Chairman, in response to Mr. Van Dusen's point, this last point, I think that we should be aware of the fact that we are not starting from the beginning. It is unfortunate that we cannot write into the constitution protection for the firemen and the policemen. However, the public school employees—and this includes teachers but is much broader than simply teachers—have this protection at the present time under the present constitution. By the acceptance of the majority report we are depriving them of this protection and I wonder how they will be reacting to it.

I would like to direct a question to Mr. Bentley because last Friday I thought he raised a very cogent point, and that was the problem of shifting this burden to the local school districts

from the legislature. I ask Mr. Bentley, if we don't have some provision like this, will not that burden be shifted from the state back to these local school districts?

CHAIRMAN MARTIN: Mr. Bentley.

MR. BENTLEY: In reply to the gentleman whom I am unfortunately unable to see, but whom I assume is one of the cosponsors of the amendment, Mr. Binkowski, it is my understanding that we did receive assurances during the discussions last Friday on this matter but it was felt that for obvious reasons the state or the legislature would not increase the burden on the school districts beyond what it is now. It might even alleviate it. I would have to refresh my memory as far as the transcript is concerned, but I do point out that I would be hopeful that the legislature would take action to keep these liabilities currently funded without creating any more hardships for the individual school districts than they already have in many cases.

CHAIRMAN MARTIN: Mr. Brake.

MR. BRAKE: Mr. Chairman, ladies and gentlemen, it seems to me that the position taken by Mr. Austin and the others on this amendment is bad psychology from the viewpoint of friends of the schools. Mr. Austin should remember that we did not in those years that he gave us the figures from, where they were appropriating insignificant sums, have any constitutional command that they should do otherwise; all they had was statutory. And now, if our Committee Proposal 40 goes through, we are to have a constitutional mandate saying "you shall". Now, if you say to the legislature, "You shall put in what now amounts to 12¼ per cent of the payroll in the outstate system" and then at the same time we shall express the doubt that it is going to follow the constitution and say, "Anyway, you must put in 7½ per cent," aren't you slightly inviting the legislature to disregard your top figure and pay attention to the bottom one?

CHAIRMAN MARTIN: Mr. Spittler, do you wish to speak?

MR. SPITTLER: Mr. Chairman and delegates, I feel that I should say a word on this in support of the amendment and I want to say the reason for that. I have stated here 2 or 3 times during the last 2 or 3 days, and I don't want to belabor that point, but I do feel that I should take a stand for it. The fear that I have is the one that I have expressed often here, that this will be passed back to the local school districts. I know the theory has been advanced here that we should allow all funds to go into a general fund, that the legislature then could consider all these and allocate as the need might be. You who have had any experience at the legislature know it just doesn't happen that way. When we get down to the last few days of the sessions of the legislature, it is a matter of who can exert the most pressure. There are pressures exerted from every source to secure a cut in that revenue. I am sure, and I feel definitely that when we earmark certain funds for a certain purpose the people have determined that we are removing at least a large share of those funds from this battle that occurs in the last session days of the legislature.

When the 2 cent sales tax was passed, it included this 7½ per cent for the retirement fund, and it was included not only that it would provide money, as Mr. Austin has said, but it was also included that it might encourage and almost require that the legislature appropriate those funds directly to the 2 retirement systems, and that is the danger that I am most fearful of. I have worked in this for 40 years. I know the problems back on the local school district level. If you are going to return, as the legislature may do when they get into the last days of the session and say, "We just don't have enough funds, we are going to return the entire 2 cents to the school districts and we are going to let them take care of the retirement," and where you have nearly 2,000 school districts, and when you know those districts as I know them and know the manner of accounting that they take care of, I am sure that you are endangering a fund here provided for schools and you are endangering a fund for those school teachers who are teaching in districts where there is poor accounting.

I am speaking in favor of the amendment for the reason that I feel we should still require the legislature, that we should encourage—and if at all possible require—the legisla-

ture to make those payments directly to the 2 retirement funds in 1 payment or 6 payments, as they are doing it now, and remove this danger of having to go back to 2,000 school districts, some which might meet this requirement and some which might not. I am in favor of the amendment.

CHAIRMAN MARTIN: Mr. Austin.

MR. AUSTIN: Mr. Chairman, in response to the remarks of my distinguished chairman, Mr. Brake, he criticized, I think, the psychological aspect of this proposition. I would like to respond by saying that we are requiring in this constitution that the state or that schools shall be encouraged and that funds shall be provided for the maintenance of schools. At the same time we are asking that 2 cents of the sales tax be set aside as a minimum guarantee for their support. I hold that the psychology involved in asking for the minimum base for the retirement is no different from the minimum base that we are asking for the school support.

CHAIRMAN MARTIN: Mr. Binkowski.

MR. BINKOWSKI: I don't want to engage in any argument. I would just like to clear up a point, Mr. Bentley, and that is this: that the committee on finance and taxation, in recommending Committee Proposal 40, which was adopted last week, certainly did not intend that the legislature should shift that burden back to the local school districts, but I think that you should be keenly aware, and everyone here should be keenly aware of the fact that under the present provisions there would be nothing in the constitution which would prevent the legislature from doing so if in its ultimate wisdom it desired to do so. This is a distinct possibility without the adoption of our amendment.

CHAIRMAN MARTIN: The question is on the Austin-Binkowski amendment. Those in favor say aye. Those opposed will say no.

A DELEGATE: Division.

CHAIRMAN MARTIN: A division is requested. Is the demand supported? Sufficient number up. Those in favor will vote aye. Those opposed will vote no. Will the secretary reread the amendment, please, so you are familiar with it.

SECRETARY CHASE: Mr. Austin and others have offered the following amendment:

[The amendment was again read by the secretary. For text, see above, page 813.]

CHAIRMAN MARTIN: Those in favor will vote aye. Those opposed will vote no. Have you all voted? Mr. Madar.

MR. MADAR: Mr. Chairman, I believe it would be a good idea if we get the pages to go down through the hall announcing that we are taking a vote on this. This is of extreme importance and I think the delegates all would like to vote on it.

CHAIRMAN MARTIN: We have a great many important questions coming up and it is the responsibility of the delegates to be here when the votes are called. We will ring the bell as we have been doing.

SECRETARY CHASE: Has everyone voted? The machine is now locked and the totals will be recorded. On the adoption of the amendment offered by Messrs. Austin and others, the yeas are 66, the nays are 66.

CHAIRMAN MARTIN: The amendment is not adopted.

SECRETARY CHASE: Mr. Faxon offers the following amendment:

1. Amend page 2, line 7, after "law," by inserting "There shall be set aside for the public universities, colleges, junior and community colleges, ½ cent of a state sales tax levy on each dollar of sales of tangible personal property to be allocated on a membership basis as shall be prescribed by law."

CHAIRMAN MARTIN: Mr. Faxon.

MR. FAXON: I hate to follow this other close vote here, but yesterday the members of this committee were in favor of earmarking a certain basic minimum support for the public elementary and secondary schools in our state. I think that our commitment to a minimum support of education is a wonderful thing and ought to be extended—extended to the higher institutions of learning, junior community colleges and the

universities. I know that the additional  $\frac{1}{2}$  cent here is not going to provide the support itself, but in terms of our total commitment to education and in terms of being consistent with our previous action, it would seem to be in keeping with both of these features if we maintained the same and did provide for a minimum amount of support for the public higher institutions of learning. I take into account the fact that Mr. Brake feels that we don't want to add any more earmarking to the sales tax levy and if we had eliminated earmarking entirely then we wouldn't be in the process of attempting to divide it up to take care of the future interests of the state. But we are engaged in the process of dividing it up. We have already committed it to a  $2\frac{1}{2}$  cent diversion and if it seems that we are here concerned with giving a minimum support to higher education, we would be equally concerned with adding another  $\frac{1}{2}$  cent to that appropriation. And so I offer this amendment in terms of being consistent with supporting elementary and secondary education. We ought to give some minimum support to higher education.

CHAIRMAN MARTIN: Mr. Brake.

MR. BRAKE: Mr. Faxon has stated the committee's position exactly. We are opposed to any additional earmarking.

CHAIRMAN MARTIN: The question is on the Faxon amendment. As many as are in favor will say aye. As many as are opposed will say no.

The amendment is not adopted.

SECRETARY CHASE: Mr. Tubbs has filed with the secretary the following amendment:

1. Amend page 1, line 24, after "property" by inserting "and the balance thereof shall be distributed to all inhabitants as of December 25 each year". (laughter)

CHAIRMAN MARTIN: The Chair was about to rule that the delegate must be present to have his amendment presented. Mr. Tubbs is here now. Mr. Tubbs, do you wish to speak on this amendment?

MR. TUBBS: I am sorry, Mr. Chairman, I was in the research department for a moment. (laughter) I wanted to be sure that December 25 was still Christmas. (laughter) We have shown so much concern for the voters of the state of Michigan in this convention that I thought we really ought to do something that would win their applause. Thank you.

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

The amendment is not adopted.

SECRETARY CHASE: Mr. Hubbs offers the following amendment:

1. Amend page 1, line 22, after "villages on a" by striking out "population basis" and inserting "basis related to population"; so that the language will read:

There shall be returned to cities, townships and villages on a basis related to population, as provided by law,  $\frac{1}{2}$  cent of a state sales tax levy on each dollar of sales of tangible personal property.

CHAIRMAN MARTIN: Mr. Hubbs.

MR. HUBBS: Mr. Chairman, members of the committee, I would like to first congratulate Delegate Tubbs on his sense of humor. The second thing that I would like to do is try and point out a problem which I think might expedite our maneuvers a little bit. I offered my amendment earlier when Mr. Hoxie's amendment was being considered and Mr. Hutchinson's amendment, but because it was related to mine, it was deferred and held over until we had considered a number of other problems. I would like to inquire at this time if it is not possible for the secretary to group amendments when they come up so that those bearing on a particular point under discussion at the moment could be disposed of before we depart and go to another area within the same proposal in the future. I think this would be helpful because we don't have to switch gears so often to go back and forth.

However, I would like to get back to the subject. I completely agree with Senator Hutchinson's proposition that the population should be deleted entirely and give the legislature the authority to do this distributing on a basis as provided by

law. However, like Mr. Downs, I also feel that population should be a very considerable factor in that distribution. I also agree with Mr. Hoxie about 50 per cent, because I don't think that inmates in state institutions which do not have any bearing on local problems should be considered in this distribution, and so I would like to change the wording to read, "basis related to population." I have put one word in which may be considered by some to be indefinite, but at the same time it will indicate to those who will interpret the constitution that we would want the distribution to be on a basis related to population and leave the door open to the legislature to define by law exactly how they will do the distributing. So I would therefore ask that you support my amendment and I think that it will accomplish a purpose which we all desire.

CHAIRMAN MARTIN: Mr. Staiger.

MR. STAIGER: Replying on behalf of the committee, this is once more an attempt to do a drafting job in the committee of the whole. As we stated before, the committee feels the intent is the same as Mr. Hubbs feels would be accomplished by his amendment. We think it already provides for that. If it does not, they are certainly going to have a chance to review it in style and drafting, and I think that is the place to do this type of work, where we are agreed on the intent and it is just a question of the words that we are talking about. We would oppose this and any other amendments to this section until we have had a chance to review it, until style and drafting has had a chance to review this question.

CHAIRMAN MARTIN: Mr. Hodges.

MR. HODGES: Mr. Chairman, I would move to make it an 80-20 formula, make it an 80 per cent population, 20 per cent land, which is the one we seem to be going to use in apportionment, and this would therefore be consistent.

CHAIRMAN MARTIN: Mr. Hubbs.

MR. HUBBS: Mr. Chairman and delegates, I think earlier in the agreement concerning Senator Hutchinson's proposition it was said that this was a definite, substantive change, and I cannot understand now how the committee reverses its position and says that it's a matter for style and drafting. If earlier in the argument it was a substantive change, it is still a substantive change, and I think that the words that I propose will eliminate the doubt as to what the legislature can do. If Mr. Hutchinson says—he being an eminent constitutional authority—that this limits the legislature, then I think that my wording would tend to loosen it up a little bit so that they could make the decision the way it should be made.

CHAIRMAN MARTIN: Mr. Van Dusen.

MR. VANDUSEN: I would simply state in response to Mr. Hubbs, Mr. Chairman, that Mr. Hutchinson's amendment proposed to delete population entirely as a criterion and Mr. Hubbs' amendment simply makes it clear, as the committee proposal intends to, that the legislature is to determine the population basis for distribution.

CHAIRMAN MARTIN: Mr. Brake.

MR. BRAKE: Mr. Hubbs has stated my exact reason for opposing what he says. He says it will loosen it up for the legislature. I certainly think it will loosen it up for the legislature. What the word "related" means is so indefinite that the legislature could go most anywhere and with the facility that the courts have for traveling off the beam in these days, the 2 of them together would have a field day. (laughter)

CHAIRMAN MARTIN: The question is on the Hubbs amendment. As many as are in favor will say aye. As many as are opposed will say no.

The amendment is not adopted.

SECRETARY CHASE: Mr. Downs offers the following amendment:

1. Amend page 1, line 22, after "law," by inserting "excluding those in state institutions other than those of higher education,"; so the language will read:

There shall be returned to cities, townships and villages on a population basis, as provided by law, excluding those in state institutions other than those of higher education,  $\frac{1}{2}$  cent of a state sales tax levy on each dollar of sales of tangible personal property.

CHAIRMAN MARTIN: Mr. Downs.

MR. DOWNS: I believe this amendment, in a sense, is an argument against trying to do things on the floor—after the original suggestion was brought to my attention that the wording would have excluded universities where people do spend money and receive services. This would exclude people in state institutions, such as patients in mental institutions, which Senator Hutchinson mentioned earlier today. I think it is along the principles of the amendment offered by Delegate Hoxie, and if this is adopted I would be very glad to have style and drafting do some improving on the language, but the principle here is sound. It does provide that the sales tax would be returned on a population basis, and we would exclude those exceptional situations, such as the prisoners. I urge its support.

CHAIRMAN MARTIN: The question is on the Downs amendment. As many as are in favor will say aye. As many as are opposed will say no.

A DELEGATE: Division.

CHAIRMAN MARTIN: A division is requested. Is the demand supported? Sufficient number up. As many as are in favor of Mr. Downs' amendment will vote aye. As many as are opposed will vote no.

SECRETARY CHASE: Has everyone voted? The machine is locked and the totals will be recorded. On the adoption of the amendment proposed by Mr. Downs, the yeas are 56; the nays are 66.

CHAIRMAN MARTIN: The amendment is not adopted. Are there further amendments, Mr. Secretary?

SECRETARY CHASE: These are all the amendments on file, Mr. Chairman.

CHAIRMAN MARTIN: Are there any amendments to the body of the proposal? If not, it will be passed.

Committee Proposal 39 is passed.

Mr. Hoxie.

MR. HOXIE: Mr. Chairman, I rise for a parliamentary inquiry. I would like a ruling whether it is proper to request or demand the vote of the Chair in the committee of the whole.

CHAIRMAN MARTIN: I will have to consult the secretary. Mr. Hoxie, there is nothing in the rules, as far as I know, which permits the vote of the Chair to be demanded, but there is also nothing in the rules which prevents the Chair from voting. My understanding, just as a matter of general practice, is that if the Chair wants to express himself on matters before the committee of the whole, that he relinquishes the Chair, but on the matter of a vote, it is my understanding that he can vote or not, as he pleases; that his vote cannot be demanded.

CHAIRMAN MARTIN: Dr. Anspach.

MR. ANSPACH: I rise on a point of personal privilege for a comment that might be of assistance to Chairman Brake. These 2 duck hunters were out. They had fine shooting all day, excellent shooting, but they missed all the ducks. Along about 6:00 o'clock at night, Bill said, "Joe, we have had fine shooting all day long but we haven't bagged a duck." He said, "That's right. Tell you what we'll do; we'll miss 2 more and then we'll go home." (laughter)

CHAIRMAN MARTIN: Mr. Mahinske.

MR. MAHINSKE: I would like to direct this question to the Chair or the secretary. It seems that this is the first time that this has happened, but we have been considering for the past 2 or 3 days, a committee report that on the floor does not have a majority of the committee itself. We have had a minority report signed by 7 people against the committee proposal, an additional minority report signed by 3 other people against the committee report, and 1 member of the committee not present when the vote was taken. So the 20 man committee had 20 members; we have 10 people from the committee signing the minority report, and one additional person, who has signed neither of the minority reports, standing up and supporting one of the minority reports; so we have 11 people out of 20 not supporting the committee proposal, and I wonder what kind of a position this puts us in.

CHAIRMAN MARTIN: Mr. Brake.

MR. BRAKE: Your difficulty, sir, is that the minorities

were not the same on the various phases of the problem. There has been nothing reported to the floor that didn't have 11 or more votes on each specific proposition. Your minorities were not the same people in connection with the different parts of the question.

CHAIRMAN MARTIN: Mr. Mahinske.

MR. MAHINSKE: I may stand corrected, but I thought that both minority reports were complete substitutions for the committee proposals. In fact, I thought one of the Republican minority reports made that pretty clear.

MR. BRAKE: I wish that you wouldn't put that name in there at all. There wasn't a single division that was based on party politics in this whole issue.

MR. MAHINSKE: I would be willing to have that stricken. This is just a means of identification here, but in the report signed by the 3 members rather than the 7 members, I thought they pointed out definitely that this was in substitution.

CHAIRMAN MARTIN: Mr. Mahinske, my understanding is that a majority of the committee signs the entire committee proposal, and this is, I believe, in accordance with the rules. Of course, the rules do permit minority reports by any 3 members of the committee on any phase of the committee report. Therefore, on certain occasions members of the committee may vote to report out a committee proposal but may reserve their right to put in a minority report on some particular phase of it as has been done here on the floor.

SECRETARY CHASE: Item 3 on the calendar, from the committee on finance and taxation, by Mr. Brake, chairman, **Committee Proposal 36**, A proposal with reference to the use to be made of the primary school interest fund, covering the subject matter now found in article X, section 1 of the 1908 constitution.

*Following is Committee Proposal 36 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 REVENUE DERIVED FROM** all subjects of taxation now contributing to the primary school interest fund [under present laws shall continue to contribute to that fund, and all taxes from such subject shall be first applied in paying the interest upon the primary school, university and other educational funds in the order herein named, after which the surplus of such moneys shall be added to and become a part of the primary school interest fund.] **SHALL BE USED EXCLUSIVELY FOR AND INCLUDED IN THE ANNUAL LEGISLATIVE APPROPRIATION FOR STATE AID TO PUBLIC EDUCATION.**

Mr. Brake, chairman of the committee on finance and taxation, submits the following reasons in support of Committee Proposal 36:

The primary school interest fund originated from the sale of the sixteenth section of each township, which was given to the state by the federal government for the support of public schools. The fund so originated was never kept intact, but instead interest has been paid by the state as if there were actually a fund, but to that interest has been added the revenues derived from the inheritance tax, corporation organization fees, foreign insurance companies tax and the ad valorem taxes on railroads, telephone and telegraph, car loaning, express companies and escheats. The amount has grown rapidly and is now running around the amount of \$60 million per year.

So far under the requirements of the law this money has been distributed to the school districts of the state on a school population basis, not on a membership basis. We are advised by an opinion of the attorney general that there is nothing in the relationship of the federal government and the state, or otherwise, which prohibits a different form of distribution, or in fact prohibits the abolition of these taxes altogether. We are therefore recommending that the funds be retained for schools but that the distri-

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

tricts. If your equalization is low, what you deduct at 3¼ mills is, of course, a small figure. There the state pays more. The objective is that every youngster in the state should have equal opportunity for primary and secondary education, and this deduction of millage is supposed to equalize as between rich districts and poor districts so that the kids will have the same treatment without any argument; it doesn't just exactly achieve that but that's the objective.

CHAIRMAN MARTIN: Mr. Lesinski.

MR. LESINSKI: Mr. Chairman, we come across the word "now" again. You have omitted "under present laws," so the word standing alone, I believe, doesn't mean anything.

CHAIRMAN MARTIN: Mr. Brake.

MR. BRAKE: I think when that question was raised yesterday, I intended to cover it. I think the word "now", I hope, means 30 days after the first Tuesday following the first Monday of November of 1962, which is the time that our new constitution should go into effect. I hope it does.

CHAIRMAN MARTIN: Mr. Lesinski.

MR. LESINSKI: Mr. Chairman, but in the old constitution you have the words "now under present laws". It has a reference, and Mr. Brake only expressed a hope and did not include a reference here.

CHAIRMAN MARTIN: Mr. Brake.

MR. BRAKE: If that hope isn't fulfilled, what we say here will never make any difference; we will still be under the 1908 constitution.

SECRETARY CHASE: Mr. Upton offers the following amendment:

1. Amend page 1, line 7, after "Sec. a.", by striking out "The revenue derived from all subjects of taxation now contributing to the primary school interest fund" and inserting "One-half cent of the sales tax"; so the language will read, "One-half cent of the sales tax shall be used exclusively for and included in the annual legislative appropriation for state aid to public education."

CHAIRMAN MARTIN: Mr. Upton.

MR. UPTON: Mr. Chairman, delegates, this is again realizing that earmarking of funds is required and requested by our delegates. When you think of what the primary school interest fund consists of—the inheritance tax, the corporation organization tax, the foreign insurance company tax, the railroad tax, telephone and telegraph tax, car loading tax, express company tax, et cetera — these taxes can be varied from time to time, perhaps by the desire to have a broader base; if we wish to appropriate and keep maintained the sense of the primary school interest fund, currently these taxes approximate \$60 million, which would currently amount to ½ of the sales tax. It appears to me if we wish to support education by earmarking of funds it would be much easier for our state administration to have all the earmarking coming from one area and allowing the legislature to then deal with the other taxes as they see fit.

To me, this would keep the earmarking for educational purposes from coming from one area. Therefore, the primary school interest fund would be maintained as it has been with the certain revenues coming from the sales tax and not from a variety of taxes, but can go up and down, which in the future may need to be changed by the legislature. I feel this, in a sense, would maintain the sense of the primary school interest fund.

CHAIRMAN MARTIN: The question is on the Upton amendment. The secretary will read the amendment, please.

SECRETARY CHASE: Mr. Upton's amendment is:

[The amendment was again read by the secretary. For text, see above.]

CHAIRMAN MARTIN: The question is on the Upton amendment. As many as are in favor—Mr. Stevens.

MR. STEVENS: Mr. Chairman, members of the committee, this change would, of course, change the traditional law of Michigan which has dedicated these funds for so many years it is beyond my memory, and probably the memory of all of us. I think we should hesitate before we do something of that sort.

CHAIRMAN MARTIN: The question is on the Upton amendment. As many as are in favor will say aye. As many as are opposed will say no.

The amendment is not adopted. Are there any further amendments to the body of the proposal? If not, it will be passed. Committee Proposal 36 is passed.

Mr. Brake.

MR. BRAKE: Mr. Chairman, I move the committee rise.

CHAIRMAN MARTIN: The question is on the motion that the committee now rise. As many as are in favor will say aye. As many as are opposed will say no.

The motion prevails and the committee will now rise.

[Whereupon, the committee of the whole having risen, President Nisbet resumed the Chair.]

PRESIDENT NISBET: The Chair recognizes Mr. Martin.

MR. MARTIN: Mr. President, the committee of the whole has had under consideration certain matters on which the secretary will give a detailed report.

PRESIDENT NISBET: Mr. Chase.

SECRETARY CHASE: Mr. President, the committee of the whole has had under consideration **Committee Proposal 39**, A proposal with reference to the earmarking of sales tax revenues covering the subject matter of section 23 of article X of the 1908 constitution. The committee of the whole reports the proposal back to the convention without amendment and with the recommendation that it do pass.

Mr. Hodges, Mr. Ford and Mr. T. S. Brown offer the following amendment to the proposal:

1. Amend page 2, line 23, after "property" by inserting a colon and "Provided however, That no sales tax shall be levied on food or medicines".

PRESIDENT NISBET: Mr. Hodges.

MR. HODGES: Mr. President, I request a recorded roll call vote on this.

PRESIDENT NISBET: The question is on the amendment of Mr. Hodges. The yeas and nays have been demanded. Is the demand seconded? Sufficient number up.

SECRETARY CHASE: The amendment is as follows: Amend page 2, line 23, after "property" by inserting a colon and the proviso: "Provided however, That no sales tax shall be levied on food or medicines".

PRESIDENT NISBET: Mr. Brake.

MR. BRAKE: Mr. President, I move we adjourn.

PRESIDENT NISBET: The question is on adjournment. Those in favor say aye. Those opposed, say no.

The motion does not prevail.

The question is on the amendment of Mr. Hodges. Those in favor of the amendment will vote aye. Those opposed will vote no.

*The roll was called and the delegates voted as follows:*

Yeas—46		
Austin	Garvin	Nord
Baginski	Greene	Norris
Balcer	Hart, Miss	Ostrow
Binkowski	Hatcher, Mrs.	Pellow
Bledsoe	Hodges	Perlich
Brown, T. S.	Hood	Richards, L. W.
Ruback	Kelsey	Sablich
Cushman, Mrs.	Krolikowski	Snyder
Dade	Lesinski	Stopczynski
Douglas	Liberato	Suzore
Downs	Madar	Walker
Durst	Marshall	Wilkowski
Elliott, Mrs. Daisy	McCauley	Yeager
Faxon	McGowan, Miss	Young
Follo	Murphy	Youngblood
Ford		

Nays—79		
Allen	Hatch	Pugsley
Anspach	Higgs	Radka
Batchelor	Howes	Rajkovich
Beaman	Hoxie	Richards, J. B.
Bentley	Hubbs	Rood
Blandford	Hutchinson	Rush



Bonisteel	Iverson	Seyferth
Brake	Judd, Mrs.	Shackleton
Conklin, Mrs.	Karn	Shaffer
Davis	Kirk, S.	Shanahan
Dehnke	Knirk, B.	Sharpe
Dell	Koeze, Mrs.	Spitler
DeVries	Leibrand	Stafseth
Donnelly, Miss	Leppien	Staiger
Doty, Dean	Lundgren	Stamm
Doty, Donald	Mahinske	Sterrett
Elliott, A. G.	Martin	Stevens
Erickson	McAllister	Thomson
Everett	Millard	Turner
Farnsworth	Mosier	Tweedie
Figy	Nisbet	Upton
Finch	Page	Van Dusen
Gadola	Perras	Wanger
Goebel	Plank	White
Gover	Powell	Wood
Hanna, W. F.	Prettie	Woolfenden
Haskill		

SECRETARY CHASE: On the adoption of the amendment offered by Messrs. Hodges, Ford and T. S. Brown, the yeas are 46; the nays are 79.

PRESIDENT NISBET: The amendment is not adopted.

Mr. Upton.

MR. UPTON: Mr. President, is it in order to ask for a roll call vote on the amendment as voted upon last night by the committee of the whole on the substitute proposal of the minority of 3?

PRESIDENT NISBET: Do you have something on the desk, Mr. Upton?

MR. UPTON: No, sir. I move to have our minority report placed before the convention as a whole.

PRESIDENT NISBET: We have 3 other amendments, Mr. Upton. Would you please prepare yours?

Mr. Marshall.

MR. MARSHALL: Mr. President, I move that the convention recess until 2:00 o'clock.

PRESIDENT NISBET: The question is on the motion to recess. Those in favor vote aye. Those opposed will vote no.

The motion prevails and we are recessed until 2:00 o'clock.

[Whereupon, at 12:05 o'clock p.m., the convention recessed; and, at 2:00 o'clock p.m., reconvened.]

The convention will please come to order.

SECRETARY CHASE: Mr. President, a quorum of the convention is present.

PRESIDENT NISBET: Before we recessed for lunch we had under consideration the report of the committee of the whole, on Committee Proposal 39. One amendment had been proposed, which was defeated. There are other amendments on the desk. I will ask the secretary to read them.

SECRETARY CHASE: Messrs. Binkowski, Austin, Ostrow, Walker and Young offer the following amendment:

1. Amend page 1, line 24, after "property" by inserting "on the 1946 statutory base (not rate)"; and page 2, line 3, after "property" by reinserting "on the 1946 statutory base (not rate)".

PRESIDENT NISBET: Mr. Binkowski.

MR. BINKOWSKI: Mr. President, ladies and gentlemen of the convention, I believe that we have debated this point at length. I think that you are pretty familiar at this point with the pros and cons. The proponents of this amendment believe that this will retain the present strength of our schools, and of course the opponents don't feel that this is necessary. I won't belabor the point. I would like, of course, to request a record roll call vote on this and unless someone else would like to speak upon it, I would move the previous question. However, if someone does wish to speak further, I would withdraw that motion.

PRESIDENT NISBET: The demand for the yeas and nays has been made. Is that demand seconded? Sufficient number up. Those who are in favor of the amendment will vote aye. Those opposed will vote no.

The roll was called and the delegates voted as follows:

#### Yeas—56

Andrus, Miss	Faxon	Nord
Anspach	Follo	Norris
Austin	Ford	Ostrow
Baginski	Garvin	Page
Balcer	Greene	Pellow
Bentley	Hart, Miss	Perlich
Binkowski	Hatcher, Mrs.	Pollock
Bledsoe	Hodges	Rajkovich
Bonisteel	Hood	Richards, L. W.
Brown, T. S.	Kelsey	Rush
Buback	Krolikowski	Sabllich
Conklin, Mrs.	Lawrence	Snyder
Cushman, Mrs.	Lesinski	Spitler
Dade	Madar	Stopczynski
Dehnke	Mahinske	Suzore
Doty, Donald	Marshall	Walker
Douglas	McCauley	Young
Downs	McGowan, Miss	Youngblood
Elliott, Mrs. Daisy	Murphy	

#### Nays—74

Allen	Hatch	Radka
Batchelor	Higgs	Richards, J. B.
Beaman	Howes	Romney
Blandford	Hoxie	Rood
Boothby	Hubbs	Seyferth
Brake	Hutchinson	Shackleton
Brown, G. E.	Iverson	Shaffer
Danhof	Judd, Mrs.	Shanahan
Davis	Karn	Sharpe
Dell	King	Stafseth
DeVries	Kirk, S.	Staiger
Doty, Dean	Knirk, B.	Stamm
Durst	Koeze, Mrs.	Stevens
Elliott, A. G.	Kuhn	Thomson
Erickson	Leibrand	Tubbs
Everett	Leppien	Turner
Farnsworth	Lundgren	Tweedie
Figy	Martin	Upton
Finch	Millard	Van Dusen
Gadola	Mosier	Wanger
Goebel	Nisbet	White
Gover	Perras	Wood
Gust	Plank	Woolfenden
Hanna, W. F.	Prettie	Yeager
Haskill	Pugsley	

SECRETARY CHASE: On the amendment offered by Messrs. Binkowski, Austin, Ostrow, Walker and Young, the yeas are 56; the nays are 74.

PRESIDENT NISBET: The amendment is not adopted.

SECRETARY CHASE: Messrs. Austin, Binkowski, Ostrow, Pellow, Stopczynski, Walker and Young offer the following amendment:

1. Amend page 2, line 7, after "law.", by inserting "For this purpose there shall be allocated from these funds, to such public school employees' retirement systems as shall be in effect from time to time under the laws of this state, not less than 7½ per cent of the salaries of school district employees participating in the respective retirement systems."

PRESIDENT NISBET: Mr. Austin.

MR. AUSTIN: Mr. President, ladies and gentlemen of the convention, we debated this issue rather extensively this morning and I am quite sure that you are familiar with what is intended. I don't think it is necessary to elaborate any further. The vote was rather close. Some of the delegates were absent and I am hopeful that the amendment will be adopted. I would respectfully request a record roll call vote.

PRESIDENT NISBET: The yeas and nays have been demanded. Is the demand seconded? Sufficient number up.

Mr. Staiger.

MR. STAIGER: Mr. President, on behalf of the committee I would just like to remind you that the committee opposed this in the committee of the whole. It had been considered in the committee before we made our proposal and we hope that you will defeat the Austin amendment.

PRESIDENT NISBET: The question is on the Austin



amendment. Those in favor of the Austin amendment will vote yes. Those opposed will vote no.

*The roll was called and the delegates voted as follows:*

## Yeas—63

Andrus, Miss	Follo	Nord
Anspach	Ford	Norris
Austin	Garvin	Page
Baginski	Greene	Pellow
Balcer	Hart, Miss	Perlich
Batchelor	Hatcher, Mrs.	Perras
Bentley	Hodges	Pollock
Binkowski	Hood	Powell
Bledsoe	Judd, Mrs.	Rajkovich
Bonisteel	Kelsey	Richards, L. W.
Brown, T. S.	King	Romney
Buback	Krolkowski	Sablich
Conklin, Mrs.	Kuhn	Snyder
Cushman, Mrs.	Lawrence	Spitler
Dade	Lesinski	Stevens
Dehnke	Madar	Stopczynski
Douglas	Mahinske	Suzore
Downs	Marshall	Walker
Durst	McCauley	Yeager
Elliott, Mrs. Daisy	McGowan, Miss	Young
Faxon	Murphy	Youngblood

## Nays—69

Allen	Haskill	Radka
Beaman	Hatch	Richards, J. B.
Blandford	Higgs	Rood
Boothby	Howes	Rush
Brake	Hoxie	Seyferth
Brown, G. E.	Hubbs	Shackleton
Danhof	Hutchinson	Shaffer
Davis	Iverson	Shanahan
Dell	Karn	Sharpe
DeVries	Kirk, S.	Sleder
Doty, Dean	Knirk, B.	Stafseth
Doty, Donald	Koeze, Mrs.	Staiger
Elliott, A. G.	Leibrand	Stamm
Erickson	Leppien	Thomson
Everett	Lundgren	Tubbs
Farnsworth	Martin	Turner
Figy	McAllister	Tweedie
Finch	Millard	Upton
Gadola	Mosier	Van Dusen
Goebel	Nisbet	Wanger
Gover	Plank	White
Gust	Prettle	Wood
Hanna, W. F.	Pugsley	Woelfenden

SECRETARY CHASE: On the proposed amendment, the yeas are 63; the nays are 69.

PRESIDENT NISBET: The amendment is not adopted.

SECRETARY CHASE: There are no other amendments on the desk, Mr. President.

PRESIDENT NISBET: There are no other amendments. **Committee Proposal 39** is referred to the committee on style and drafting.

*For Committee Proposal 39 as referred to the committee on style and drafting, see above, page 785.*

SECRETARY CHASE: The committee of the whole, Mr. President, has also had under consideration **Committee Proposal 36**, A proposal with reference to the use to be made of the primary school interest fund, covering the subject matter now found in article X, section 1 of the 1908 constitution. The committee of the whole reports this proposal back to the convention without amendment, with the recommendation that it do pass.

PRESIDENT NISBET: **Committee Proposal 36** is referred to the committee on style and drafting.

*For Committee Proposal 36 as referred to the committee on style and drafting, see above, page 818.*

SECRETARY CHASE: That completes the report of the committee of the whole, Mr. President.

PRESIDENT NISBET: We will return to the calendar and refer to **general orders**. Mr. Powell.

MR. POWELL: Mr. President, I move the convention resolve itself into committee of the whole for consideration of proposals on the general orders calendar.

PRESIDENT NISBET: The question is on the motion of Mr. Powell. Those in favor will say aye. Those opposed will vote no.

The motion prevails. Mr. Powell, will you preside?

[Whereupon, Mr. Powell assumed the Chair to preside as chairman of the **committee of the whole**.]

CHAIRMAN POWELL: The committee will be in order. The secretary will read the first proposal.

SECRETARY CHASE: Item 4 on the calendar, from the committee on education, by Mr. Bentley, chairman, **Committee Proposal 31**, A proposal to amend article XI, section 14 of the present constitution pertaining to public libraries.

*Following is Committee Proposal 31 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 legislature shall provide by law for the establishment [of at least 1 library in each township and city;] **AND SUPPORT OF PUBLIC LIBRARIES WHICH SHALL BE AVAILABLE TO ALL RESIDENTS OF THE STATE.** [and] All fines assessed and collected in the several counties, cities and townships for any breach of the penal laws shall be exclusively applied to the support of such **PUBLIC libraries**[.], **AS PROVIDED BY LAW.**

Mr. Bentley, chairman of the committee on education, submits the following reasons in support of **Committee Proposal 31**:

This section continues the fine Michigan tradition of encouragement and support of public libraries throughout the state, but it does attempt to eliminate some of the confusing elements of the present article XI of section 14. The 1908 constitution states: "The legislature shall provide by law for the establishment of at least 1 library in each township and city; . . ." This has never been adhered to as a matter of practice. Today, only 1 out of 15 townships has a library.

The present language emphasizes that "public" libraries will be "available" to residents without fixing how or where the libraries themselves shall be organized. The committee presumes that legislation may be written so that each library may make reasonable rules for the use and control of its books.

Under this proposal present libraries will be retained. But to make libraries more available to the people their services may be expanded through cooperation, consolidation, branches and bookmobiles.

The word "support" has been included because there is a growing need for statewide support for public libraries. Our legislature has recognized this and since 1937 has been appropriating limited funds on a regular basis.

Penal fines for support of libraries have been continued. There appears to be a great deal of controversy surrounding the use of these fines but much that has been said is the result of misinformation rather than fact. State supreme court decisions have clarified the fines that may be used for library purposes and from a legal viewpoint the present plan is operating satisfactorily. The committee realizes that these fines do not adequately support libraries and that they must be supplemented by state and local funds but there is a long tradition connected with their use and they are one of the few sources of revenue collected locally outside the property tax.

The term "public libraries" has been used to further clarify eligibility for state and local support. While su-

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

**PRESIDENT NISBET:** Referred to the order of second reading of proposals.

**SECRETARY CHASE:** The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 61 of that committee, reporting back to the convention **Committee Proposal 37**, A proposal to provide for care and control of state funds, accounting for public moneys, audits, and publication of reports, and covering the general subject matter found in sections 15, 16, 17, 18 and 13 of article X of the 1908 constitution; with the recommendation that the style and form be approved.  
William B. Cudlip, chairman.

*For Committee Proposal 37 as reported by the committee on style and drafting, see below under date of April 19.*

**PRESIDENT NISBET:** Referred to the order of second reading of proposals.

**SECRETARY CHASE:** The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 62 of that committee, reporting back to the convention **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; with the recommendation that the style and form be approved.  
William B. Cudlip, chairman.

*For Committee Proposal 38 as reported by the committee on style and drafting, see below under date of April 19.*

**PRESIDENT NISBET:** Referred to the order of second reading of proposals.

**SECRETARY CHASE:** The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 63 of that committee, reporting back to the convention **Committee Proposal 39**, A proposal with reference to the earmarking of sales tax revenues covering the subject matter of section 23 of article X of the 1908 constitution; with the recommendation that the style and form be approved.  
William B. Cudlip, chairman.

*For Committee Proposal 39 as reported by the committee on style and drafting, see below under date of April 19.*

**PRESIDENT NISBET:** Referred to the order of second reading of proposals.

**SECRETARY CHASE:** The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 64 of that committee, reporting back to the convention **Committee Proposal 49**, A proposal with reference to the borrowing of money by public corporations and bodies; with the recommendation that the style and form be approved.  
William B. Cudlip, chairman.

*For Committee Proposal 49 as reported by the committee on style and drafting, see below under date of April 19.*

**PRESIDENT NISBET:** Referred to the order of second reading of proposals.

**SECRETARY CHASE:** The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 65 of that committee, reporting back to the convention **Committee Proposal 51**, A proposal setting up the uniform rule of taxation for providing for equalization a maximum limit for assessments, prohibiting a graduated income tax, and covering the subject matter of sections 3, 4, 7 and 8 of article X of the 1908 constitution; with the recommendation that the style and form be approved.  
William B. Cudlip, chairman.

*For Committee Proposal 51 as reported by the committee on style and drafting, see below under date of April 19.*

**PRESIDENT NISBET:** Referred to the order of second reading of proposals.

**SECRETARY CHASE:** The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 66 of that committee, reporting back to the convention **Committee Proposal 52**,

A proposal with reference to the taxation of certain utilities, covering the material in article X, section 5 of the 1908 constitution; with the recommendation that the style and form be approved.  
William B. Cudlip, chairman.

*For Committee Proposal 52 as reported by the committee on style and drafting, see below under date of April 19.*

**PRESIDENT NISBET:** Referred to the order of second reading of proposals.

**SECRETARY CHASE:** The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 67 of that committee, reporting back to the convention **Committee Proposal 55**, A proposal to include article X, section 19 of the 1908 constitution in the new constitution; with the recommendation that the style and form be approved.  
William B. Cudlip, chairman.

*For Committee Proposal 55 as reported by the committee on style and drafting, see below under date of April 19.*

**PRESIDENT NISBET:** Referred to the order of second reading of proposals.

**SECRETARY CHASE:** The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 68 of that committee, reporting back to the convention **Committee Proposal 56**, A proposal to limit the ad valorem taxation of property covering the subject matter of section 21, article X of the 1908 constitution, commonly known as the 15 mill limitation; with the recommendation that the style and form be approved.  
William B. Cudlip, chairman.

*For Committee Proposal 56 as reported by the committee on style and drafting, see below under date of April 19.*

**PRESIDENT NISBET:** Referred to the order of second reading of proposals.

Communications.

**SECRETARY CHASE:** None.

**PRESIDENT NISBET:** Motions and resolutions.

**SECRETARY CHASE:** No resolutions on file.

**PRESIDENT NISBET:** Unfinished business.

**SECRETARY CHASE:** None.

**PRESIDENT NISBET:** **General orders.** The Chair recognizes Mr. Hutchinson.

**MR. HUTCHINSON:** Mr. President, I move that the convention resolve itself into committee of the whole for the further consideration of proposals on general orders.

**PRESIDENT NISBET:** The question is on the motion of Mr. Hutchinson. Those in favor will say aye. Opposed no. The motion prevails.

[Whereupon, Mr. Hutchinson assumed the Chair to preside as chairman of the committee of the whole.]

**CHAIRMAN HUTCHINSON:** The committee will be in order. The secretary will announce the present situation.

**SECRETARY CHASE:** Item 20 on the general orders calendar, from the committee on legislative powers, by Mr. Hoxie, chairman, **Committee Proposal 118**, A proposal to provide for vesting the legislative power in the senate and house of representatives and to reserve the power of initiative and referendum to the people. Two amendments have been adopted and pursuant to their minority report, Messrs. Downs, Lesinski and Murphy have offered an amendment to insert 2 new paragraphs on page 6, after line 24.

*For last previous action by the committee of the whole on Committee Proposal 118, see above, page 2390.*

Last evening Mr. Downs had revised the amendment by the addition of a sentence to the first paragraph and another sentence at the end of the second paragraph. This revised amend-

haven't changed that legislature sufficiently to expect any change. But even if we assume that the legislature is going to change, I don't see how we at this time can change the opinions, or at least the decisions made by the people by referendum. The language of this convention will not change human nature overnight.

I don't want to get into an emotional argument, and I don't intend to. But I would like to say this in conclusion: that we must retain the earmarking that the people have decided was necessary in order to force the legislature to face up to its responsibility, and I certainly feel that we ought to retain this highway earmarking as well as the school earmarking.

**PRESIDENT NISBET:** The Chair recognizes Mr. Stafseth.

**MR. STAFSETH:** Mr. President, fellow delegates, I will be very brief because I went over practically all this material in committee of the whole. The gas and weight tax, of course, is a users' tax. It is directly related to the people that use the highways and pay for the highways that they use.

One of the reasons for the antidiversion amendment is to prevent double taxation on the products of the highway, such as gasoline and the weight tax on cars. If you didn't have this you would have a double tax. And thirdly, this provision leaves complete flexibility within the legislature to raise or lower according to the needs, and now they have added into it, "as defined by law," so you can determine the nature of the highway needs.

**PRESIDENT NISBET:** The question is on the amendment. The yeas and nays have been demanded. Those in favor of Mrs. Cushman's amendment will vote aye. Those opposed to the amendment 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—9

Bradley	Kuhn	McLogan
Brown, G. E.	McCauley	Pollock
Cushman, Mrs.	McGowan, Miss	Shackleton

#### Nays—103

Allen	Hanna, W. F.	Prettie
Andrus, Miss	Hannah, J. A.	Pugsley
Anspach	Hart, Miss	Richards, J. B.
Austin	Haskill	Richards, L. W.
Balcer	Hatch	Romney
Barthwell	Hatcher, Mrs.	Rood
Batchelor	Heideman	Rush
Beaman	Higgs	Sablich
Bentley	Hodges	Seyferth
Blandford	Hood	Shaffer
Bledsoe	Hoxie	Shanahan
Boothby	Hubbs	Sharpe
Brake	Hutchinson	Sleder
Buback	Iverson	Snyder
Butler, Mrs.	Jones	Spitler
Conklin, Mrs.	Judd, Mrs.	Stafseth
Cudlip	Karn	Staiger
Danhof	King	Stamm
Dehnke	Kirk, S.	Sterrett
Doty, Dean	Knirk, B.	Stevens
Douglas	Leibbrand	Stopczynski
Downs	Leppien	Suzore
Durst	Liberato	Thomson
Elliott, A. G.	Madar	Turner
Elliott, Mrs. Daisy	McAllister	Tweedie
Erickson	Millard	Van Dusen
Everett	Mosier	Walker
Farnsworth	Nisbet	Wanger
Figy	Norris	White
Finch	Page	Wilkowski
Follo	Perlich	Wood
Gadola	Perras	Woolfenden
Goebel	Plank	Yeager
Gover	Powell	Young
Habermehl		

**SECRETARY CHASE:** On the amendment offered by Mrs. Cushman, the yeas are 9; the nays are 103.

**PRESIDENT NISBET:** The amendment is not adopted. The question now is on Committee Proposal 38. Will you clear the

board, please? Will the delegates please clear the board? The question is on the adoption of Committee Proposal 38. Those in favor of adopting the committee proposal 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—115

Allen	Hart, Miss	Prettie
Austin	Haskill	Pugsley
Balcer	Hatch	Radka
Barthwell	Hatcher, Mrs.	Rajkovich
Batchelor	Heideman	Richards, J. B.
Beaman	Higgs	Richards, L. W.
Bentley	Hodges	Romney
Binkowski	Hood	Rood
Bledsoe	Howes	Rush
Bonisteel	Hoxie	Sablich
Boothby	Hubbs	Seyferth
Brake	Hutchinson	Shackleton
Buback	Iverson	Shaffer
Butler, Mrs.	Jones	Shanahan
Conklin, Mrs.	Judd, Mrs.	Sharpe
Cudlip	Karn	Sleder
Danhof	Kelsey	Snyder
Dehnke	King	Spitler
Dell	Kirk, S.	Stafseth
DeVries	Knirk, B.	Staiger
Doty, Dean	Kuhn	Stamm
Doty, Donald	Leibbrand	Sterrett
Douglas	Leppien	Stevens
Downs	Liberato	Stopczynski
Durst	Madar	Suzore
Elliott, A. G.	McCauley	Thomson
Elliott, Mrs. Daisy	McGowan, Miss	Turner
Erickson	McLogan	Tweedie
Everett	Millard	Upton
Farnsworth	Mosier	Van Dusen
Figy	Murphy	Walker
Finch	Nisbet	Wanger
Follo	Norris	White
Gadola	Page	Wilkowski
Goebel	Perlich	Wood
Gover	Perras	Woolfenden
Habermehl	Plank	Yeager
Hanna, W. F.	Powell	Young
Hannah, J. A.		

#### Nays—6

Bradley	Cushman, Mrs.	McAllister
Brown, G. E.	Lesinski	Pollock

**SECRETARY CHASE:** On the passage of Committee Proposal 38, the yeas are 115; the nays are 6.

**PRESIDENT NISBET:** Committee Proposal 38 is passed and referred to the committee on style and drafting.

*For Committee Proposal 38 as rereferred to the committee on style and drafting, see above, page 2631.*

**SECRETARY CHASE:** Item 6 on your calendar, **Committee Proposal 39**, A proposal with reference to the earmarking of sales tax revenues covering the subject matter of section 23 of article X of the 1908 constitution.

*Following is Committee Proposal 39 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 785.):*

Sec. a. There shall be returned to cities, townships and villages on a population basis, as provided by law,  $\frac{1}{2}$  cent of [a] state sales tax [levy] **LEVIED ON RETAILERS** on each dollar of THE sales of tangible personal property.

There shall be set aside [for the school districts] 2 cents of [a] THE state sales tax [levy] **LEVIED ON RETAILERS** on each dollar of THE sales of tangible personal property, to be [allocated among said school districts by law. Such taxes so collected shall be expendable only by legislative appropriations] **APPROPRIATED AS PROVIDED BY**

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

**LAW** for aid to the school districts and school employees' retirement purposes [as shall be provided by law].

Prior to any division or allocation of the sales tax, the cost of collection [as determined by the department of revenue] shall be deducted [from total collections and credited to the general fund of the state].

[At no time shall] The legislature SHALL NOT levy a sales tax on retailers ON SALES OF TANGIBLE PERSONAL PROPERTY at a rate of more than 4 per cent of their gross taxable sales [of tangible personal property].

**PRESIDENT NISBET:** The Chair recognizes Mr. Brake.

**MR. BRAKE:** Mr. President, ladies and gentlemen of the convention, you have on your desk a substitute for Committee Proposal 39.

*For text of substitute, see below.*

I think we need to go over this one pretty carefully. Taking this along with the primary school fund matter which is tied in with it, this is the last item, so far as I know now, which is included within the so called package; unless somebody comes up with amendments that infringe upon that jurisdiction. Now, you will notice that there is a change in the method of saying that there shall be sales tax earmarked for local government. Instead of saying  $\frac{1}{2}$  cent as the present constitution does, we say  $\frac{1}{8}$  of the sales tax, which amounts to the same thing as long as we have a 4 cent sales tax, but would be different if the legislature went either up or down with the sales tax.

Now the next item, the next sentence is certainly legislative. It says that they may exclude from the population count the inmates of a prison or hospital, and so forth. It is legislative. But as you probably know the legislature has in the past been counting  $\frac{1}{2}$  of the population of a prison or a state hospital in counting up the population which determines the division of the sales tax within the county. In other words, at southern Michigan prison, Blackman township counted  $\frac{1}{2}$  of the prisoners in that prison in determining how much sales tax it was going to get. Now that was a pure compromise in the legislature. No question about it. But we have an attorney general's opinion saying that unless we put this wording in, the legislature will have no discretion and all the inmates of that prison or any other prison or hospital will be counted in determining the township's or city's, or whatever it is, share of the sales tax. That means a gold mine for a township or a city that has one of these big institutions. This does not make the determination. It simply says that the legislature shall have the right to determine how much population in one of those institutions shall be counted in determining the share of that governmental unit in the sales tax distribution. We have retained in the next paragraph the 4 cent limit that is in the present constitution, and that was put there so recently.

Now, you will notice that there is no school money earmarked, and a part of this same plan is to do away with the earmarking of the primary school fund. We realize this is controversial. School people are divided among themselves as to whether they wish to continue any earmarking for school purposes, and we know that the delegates here in the convention are divided on that subject. We have followed the recommendation of the MEA. We know that that does not carry with it the approval of all of the school people in the state, nor of all the school people here in this convention. And, admittedly, the MEA has changed its mind in the last 2 or 3 months so fast that some of us have had a great deal of trouble in keeping up with them. I call your attention, however, to the fact that this means nothing, in my judgment, in the matter of dollars and cents. We are paying the schools more than the primary school money plus the 2 cent sales tax, and to the tune of, I think, \$40 million it is to be this year, a very substantial amount. And so far as anybody can foresee in the future the schools are going to get more by appropriation by the legislature from the general fund than the earmarking would give them. So this isn't a question of dollars.

This is a question of principle. If you don't believe in earmarking, here is a chance to get rid of a lot of it all in one package. If you do believe in earmarking, well, that's what you believe in. That's all there is to it. I assume there will be amendments in this connection. Now, that is what we are proposing to do, and the matter is now in your hands.

**PRESIDENT NISBET:** The secretary will read the substitute.

**SECRETARY CHASE:** Mr. Brake, on behalf of the committee on finance and taxation, offers the following substitute for Committee Proposal 39:

Sec. a. One-eighth of all taxes upon the privilege of selling tangible personal property at retail shall be used exclusively for assistance to cities, villages and townships, on a population basis as provided by law. The legislature may exclude from population any portion of the total number of persons who are wards, patients or convicts of any tax supported institution.

At no time shall the legislature levy a sales tax on retailers at a rate of more than 4 per cent of their gross taxable sales of tangible personal property.

Sec. b. There shall be established a state school aid fund. The legislature may from time to time dedicate certain tax revenues to this fund which shall be used exclusively for the support of public education in a manner provided by law.

**MR. BRAKE:** Mr. President.

**PRESIDENT NISBET:** Mr. Brake.

**MR. BRAKE:** If I may just add something, I didn't comment on that last clause providing for the setting up of a state school aid fund by the legislature. The wording and the request both came from the official school organization, the MEA. I think what it means is perfectly apparent from reading it.

**PRESIDENT NISBET:** Any amendments?

**SECRETARY CHASE:** Messrs. Howes, Rush, Turner, Spittler and Anspach offer the following amendment to the substitute:

1. Amend page 1, line 12, [section b] after "public education" by inserting "and for school employees retirement systems,"; so the language will then read:

The legislature may from time to time dedicate certain tax revenues to this fund which shall be used exclusively for the support of public education and for school employees retirement systems, in a manner provided by law.

**PRESIDENT NISBET:** The Chair recognizes Mr. Howes.

**MR. HOWES:** Mr. President, fellow delegates, I rise in favor of this amendment. This amendment states that the school retirement systems shall be a part of the appropriation for education. I am quite sure that the majority of our committee on finance and taxation would favor this amendment, although it came to our attention too late to be considered in our last committee meeting. It was considered at the last meeting of the education committee, and the majority of that committee favored the amendment. I urge your support of this amendment, and I would now yield to our committee chairman, Mr. Brake, and then to anyone else who would care to speak on it.

**PRESIDENT NISBET:** Mr. Brake.

**MR. BRAKE:** Mr. President, ladies and gentlemen, Mr. Howes is correct. The committee has not had the opportunity to meet since this request was made, but in the original proposal that we submitted to you in February, language to this effect was included. I have no personal objection, and so far as I know there is none in the committee.

**PRESIDENT NISBET:** The question is on the adoption of the amendment. Mr. Bentley.

**MR. BENTLEY:** Mr. President, the committee on education supports this amendment unanimously.

**PRESIDENT NISBET:** The question is on the adoption of the amendment to the substitute. Those in favor say aye. Opposed, no.

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

The amendment is adopted. The secretary will read the next amendment.

**SECRETARY CHASE:** Messrs. Heideman, L. W. Richards, Miss Hart, Mrs. Butler and Mr. Austin offer the following amendment to the substitute:

1. Amend the substitute, following line 6, [section a, paragraph 1] by inserting a new paragraph to read as follows:

"There shall be set aside for the school districts 2 cents of a state sales tax levy on each dollar of sales of tangible personal property on the 1946 statutory base (not rate), to be allocated among said school districts by law. Such taxes so collected shall be deposited in a special school aid fund and be expendable only by legislative appropriations for aid to the school districts and school employees' retirement purposes as shall be provided by law. Said school aid fund shall be separate and distinct from the state general fund."

**PRESIDENT NISBET:** The question is on the amendment. Mr. Heideman.

**MR. HEIDEMAN:** Mr. President, ladies and gentlemen, I rise to support this amendment to restore the sales tax for the schools of Michigan. In this sales tax amendment we have the definite, certain and measurable will of the people of the state of Michigan to provide and to protect the education of our young people, to provide armor for our educational system, to make it less vulnerable to various financial vicissitudes. I would like to quote here from the Comparative Analysis of the Michigan Constitution, volume 2:

Section 23 was added to the present constitution by amendment proposed by initiatory petition and adopted at the November election in 1946. A proposal by joint resolution of the 1947 legislature to repeal this section failed of ratification at the November election of 1948. It was amended in 1954 and again in 1960 to its present form.

Commonly referred to as "the sales tax diversion amendment," section 23, as originally adopted in 1946, required payment to local governments of portions of "total sales tax revenues" as follows:

1/6 to townships, cities and villages on per capita basis  
1/6 to school districts on school census basis  
44.77 per cent to school districts on basis of formula adopted by the legislature of prior year's sales tax revenue

The amendment adopted in 1954 established a 3 per cent sales tax rate ceiling and provided that the "cost of collection as determined by the department of revenue shall be deducted from total collections." This same amendment provided that the distribution should be as follows:

½ cent of sales tax on 1946 statutory base to cities, townships and villages on per capita basis  
2 cents of sales tax on 1946 statutory base to school districts on basis of formula adopted by legislature

The amendment of 1960 increased the sales tax rate ceiling from 3 per cent to 4 per cent without changing the portions payable to townships, cities, villages and school districts. This amendment was adopted after the supplemental state use tax on retail sales of 1 per cent, adopted in 1959, had been declared in violation of the 3 per cent sales tax limitation imposed by section 23. Its purpose was to enable the state to collect revenues from a 1 per cent additional sales tax for its own purposes as a replacement of revenues it had sought from the 1 per cent use tax.

The schools also should be able to plan their budgets to have knowledge about the years ahead. I might say, what is food for the goose is food for the gander—shall we say "Michigoose" and "Michigander?"—and the goose seems to be getting quite fat here. I do not wish the goose to go hungry, but I would like the gander also to be fed so that we would have a future in Michigan for our "Michiganders" and "Michigeese."

We call for free elementary and secondary education by constitutional mandate. As passed in second reading, Committee Proposal 30 reads: "The legislature shall maintain and support a system of free public elementary and secondary schools as defined by law." That is the pertinent part here. Now, it seems to me that if we are to provide for a system of

free public elementary and secondary schools, we should also provide for a parallel fund to guarantee that free education. Somebody has to pay for it, and this is our way of showing our good faith and our belief in this splendid Michigan educational system.

A word as to earmarking: earmarking or dedication of funds is not something heinous. It is one of the oldest, most honored of Michigan's governmental policies and practices. It dates back over a century. The University of Michigan has had dedicated funds, Michigan State—to enumerate the list would take a long time and much research, as a matter of fact. So I say, dedicated funds are not something to be ashamed of, not something to shy away from. I think they are something to be proud of and I am very proud that the people of Michigan showed their leadership by instituting this sales tax by initiatory petition. They were ahead of the elected leaders, not behind them, in this respect.

The only even partially valid argument in favor of eliminating the sales tax guarantees for the schools would be to eliminate or do away with all earmarked funds or restricted provisions. I think it is morally indefensible to have earmarked funds for the highways and for other purposes if we do not have them for the schools as well. Now I voted in favor of earmarking for the highways because I think it is good. The earmarking for the highways is good. It serves a very real and necessary purpose. But even better is the welfare of our young, and rather than looking with scorn upon these dedicated funds, I think we should be proud of them; because by them, as I have said, we pledge our faith, our faith to the young of this state, and it is an old axiom of democracy that free society cannot survive in ignorance.

Now I would like to end by quoting the figures with respect to the vote on the sales tax. I think they are impressive. We are all here as elected delegates. To fail to know the pulse of the people, then what is the purpose of drawing up a constitution? It isn't to draw up a constitution in a vacuum as a professor would, and I have been one most of my life. That is not our purpose. Our purpose is to draw up a basic document for a free society under which we may live and be as happy as we can. Here are the figures: in 1946—and I worked, of course, in every one of these elections for the sales tax for the schools, so I have that stake in it too—beginning with 1946, I was at that time not in my northern bailiwick but at Ann Arbor, the vote on the so called sales tax amendment in 1946 was 864,530 in favor, 584,689 opposed. Then there were still those who wished to thwart the will of the people, and so the legislature put it up for rescission, and the people came back with a thunderous and thumping response; the people of Michigan voted 1,446,016 opposed to the rescission of the tax, and only 343,217 in favor of rescission. Now, I am not a mathematician, but it seems to me that is over 4 times, over 4 to 1, isn't it? In 1954 the question came up again in the form of a perfecting amendment or amendments and the people again indicated their views on the subject by voting in favor of the tax amendment, 1,182,412 and only 443,079 against it. The question came up in another form in 1960; people voting to increase the tax, which, of course, isn't a very pleasant thing to do, but again the people voted 1,250,264 for the increase of 1 cent and 1,230,001 against.

So I say to you that we can do nothing more right, more essential for the welfare of our beloved state than to restore this money to the schools.

**PRESIDENT NISBET:** The Chair recognizes Mr. Richards.

**MR. L. W. RICHARDS:** Mr. President, fellow delegates, I believe Mr. Heideman has covered various angles here that I would not like to repeat, but I would be remiss if I did not rise in support of this amendment. This morning the position of the MEA was referred to. I have a lot of respect for that organization—the work they have done—but I stand as a delegate here today, and I did receive a call this morning from the executive committee that met this morning in Detroit representing the Michigan association of school administrators and the school board association. They are greatly disturbed to think that this delegation will earmark funds for every phase of the government, practically, except education. If

we stood here today and eliminated all earmarked funds, I would support it.

I am very much surprised that some people have stood on the floor and asked for flexibility, at the expense of the schools, for the legislature. Certainly this must be a day of trust for the legislature. I don't believe we can justify our position when we stand and support earmarked funds for highways, support it for civil service, support it for townships and cities, and eliminate the school system. You may say: after all, the school systems are assured of money. I realize this earmarking can only be a minimum required for educational purposes, but also it is a base. It has been in the constitution ever since its origination. I believe we would go amiss if we didn't recognize a minimum standard, a minimum amount, at least, for education. I don't believe anyone here today could vote against this amendment when you have taken the position you have in earmarking funds for every other phase that originally has been in the constitution. If you want flexibility, let's go all out, take all earmarking funds out and let our legislators take care of the distribution.

I am afraid of this, ladies and gentlemen, in the form it is now. I think our people have spoken on several occasions. We have to go out and sell this document. I think this will be a big factor in selling it. I believe, folks, there is nothing greater than being determined that we are going to give a minimum of support for the education of our youth. This is a must, and I honestly solicit from you the support for this amendment. Thank you.

MR. BRAKE: Mr. President, a preferential motion.

PRESIDENT NISBET: Mr. Brake.

MR. BRAKE: I am sure everyone understands this issue, and I am fearful of the attendance we are going to have late in the day. So I move that debate be limited to 10 minutes.

PRESIDENT NISBET: The question is on the motion of Mr. Brake. Those in favor say aye. Opposed, no.

The motion prevails. The Chair recognizes Mrs. Cushman.

MRS. CUSHMAN: Mr. President and fellow delegates, I rise to support this amendment. The convention has apparently decided to accept earmarking for our state, and once we do this we certainly should accept it for our schools and for the children and teachers of the state. If we accept it for roads and turn it down for schools, we are going to appear to put roads on a higher level than schools, as a more important activity. I don't think we should appear in any way to do this, and for this reason I support this amendment.

PRESIDENT NISBET: The Chair recognizes Mr. Jones.

MR. JONES: Mr. President, fellow delegates, I also rise to support this amendment, and to point out to the delegates that in spite of what Mr. Brake said regarding the MEA stand on this particular issue, I can assure you that the Michigan education association does not reflect the views of a majority of its members. The views of the MEA are decided by a small clique of paid staff who reside in Lansing and make up their minds in terms of which way the political winds are blowing. Therefore, I would discount any position in this matter taken by the MEA.

PRESIDENT NISBET: The Chair recognizes Mr. Bentley.

MR. BENTLEY: Mr. President, I obviously do not speak for the committee on education, but as an individual I oppose the amendment and support the committee substitute. I think we just might remember one thing: the estimated revenue from the 2 cents of the 4 cent sales tax would be about \$209 million. That is about 45 per cent of the total amount needed to support public education at all levels in this state at this time. We are going to have to trust the legislature to make up the balance of the \$450 odd million needed even if the 2 cent sales tax diversion were retained. I suggest that we can, in view of the importance of education, go all the way on this.

PRESIDENT NISBET: The Chair recognizes Mr. Norris.

MR. NORRIS: Mr. President, I am most disturbed by the substitute committee proposal and I rise to support the amendment that is now before us, for 2 reasons: first, I believe we have in it at least a guaranteed minimum base, so that the degree of discretion with regard to the legislature on this most important matter is limited. I think it ought to be

limited because of the high place that education should have in our values and the kind of constitutional mandate we ought to continue to the legislature to see that the education of our young is a high priority tax. By guaranteeing this it allows them less discretion to apply, for other purposes, moneys otherwise appropriable for education. I am also disturbed because I think we are departing, in a whole host of overhaul changes, from a policy of selective change in this constitution. We are proceeding to change many more things than are necessary, and I think we are multiplying the number of groups that will be against the final document.

I commend to you the fact that every report on education that emanates from Washington relates the whole phenomenon of education to the survival and growth of our democratic society, and I think we ought to reflect that in Michigan. I think we are taking, if you will, the low road when we place the high value on roads and not upon education as much as we ought. I think that earmarking has served a useful purpose in both connections, but certainly we ought not to say that education is of lesser value than the roads. I urge that we support the amendment before us.

PRESIDENT NISBET: The Chair recognizes Dean Doty.

MR. DEAN DOTY: Mr. President, I rise to urge the delegates to defeat this amendment, and I would like to tell Mr. Richards that as a member for 9 years of the association he referred to, I not once knew what their position was on hardly anything. I do not recall at any time their even being concerned with what our board of education thought. I say to you that the Michigan state legislature has proved that it is concerned about education, and has constantly appropriated more money than sales tax has given, and I urge you to defeat this amendment.

PRESIDENT NISBET: The Chair recognizes Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, with all the vigor at my command, I also urge the defeat of this amendment. I think the material reduction of earmarking can be one of the significant accomplishments of this convention. The committee substitute does that. The present amendment would simply reintroduce into the constitution all of the present statutory detail, all of the inflexibility which we presently have. I strongly urge the defeat of the Heideman amendment and support of the committee proposal.

PRESIDENT NISBET: The Chair recognizes Mr. Austin.

MR. AUSTIN: Mr. President and fellow delegates, I must respectfully take the opposing view of my good friend, Dick Van Dusen. With all the vigor at my command I support this amendment and certainly oppose the committee substitute. It is my understanding that the MEA—I can be corrected on this if I am wrong—favored the removal of all earmarking, or at least earmarking of sales tax for education, provided all other earmarking were removed from the constitution. Inasmuch as we have retained the earmarking for the highways, I am not sure that the MEA would take the position that it has been said they would take. Also, it is my understanding that there are other members of the education committee who would support this amendment.

The time is short and I will have to be brief, and I will merely remind you again that it was not earmarking which got us in the financial trouble that we are in. It is simply that the legislature has refused to raise sufficient tax revenues, and the people decided to earmark enough of the revenues to be absolutely certain that the schools would be taken care of, and if the legislature were going to dilly dally on raising revenues, they would not be able to reduce the amount of the school services. So I would strongly urge that we support this amendment, and I would oppose the committee substitute.

PRESIDENT NISBET: The Chair recognizes Mrs. Butler.

Time has expired. I am sorry. The question now is on the amendment of Mr. Heideman.

MR. HODGES: I demand the yeas and nays.

PRESIDENT NISBET: The yeas and nays have been demanded. Is that demand supported? It is supported. Will you ring the bell, Mr. Chase? Those in favor of the amendment



offered by Mr. Heideman and others will vote aye. Those opposed will vote no. 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—46**

Austin	Habermehl	Mahinske
Baginski	Hannah, J. A.	McAllister
Balcer	Hart, Miss	Murphy
Barthwell	Hatcher, Mrs.	Norris
Binkowski	Heideman	Perlich
Bledsoe	Higgs	Perras
Bradley	Hodges	Richards, L. W.
Buback	Hood	Snyder
Butler, Mrs.	Hoxie	Stopczynski
Cushman, Mrs.	Jones	Suzore
Dehnke	Kuhn	Walker
Douglas	Leibbrand	Wilkowski
Downs	Lesinski	Woolfenden
Elliott, Mrs. Daisy	Liberato	Young
Erickson	Madar	Youngblood
Follo		

**Nays—79**

Allen	Haskill	Richards, J. B.
Andrus, Miss	Hatch	Romney
Anspach	Howes	Rood
Batchelor	Hubbs	Rush
Beaman	Hutchinson	Sablich
Bentley	Iverson	Seyferth
Blandford	Judd, Mrs.	Shackleton
Bonisteel	Karn	Shaffer
Boothby	King	Shanahan
Brake	Kirk, S.	Sharpe
Brown, G. E.	Knirk, B.	Sleder
Conklin, Mrs.	Koeze, Mrs.	Spitler
Danhof	Leppien	Stafseth
DeVries	McCauley	Staiger
Doty, Dean	McLogan	Stamm
Doty, Donald	Millard	Sterrett
Durst	Mosier	Stevens
Elliott, A. G.	Nisbet	Thomson
Everett	Page	Turner
Farnsworth	Plank	Tweedie
Figy	Pollock	Upton
Finch	Powell	Van Dusen
Gadola	Prettie	Wanger
Garvin	Pugsley	White
Goebel	Radka	Wood
Gover	Rajkovich	Yeager
Hanna, W. F.		

SECRETARY CHASE: On the amendment offered by Mr. Heideman and others, the yeas are 46; the nays are 79.

PRESIDENT NISBET: The amendment is not adopted. Mr. Brake.

MR. BRAKE: Mr. President, I hope we can have as many people here after lunch as are possible until we dispose of some more of these controversial items. I move we recess until 1:30.

PRESIDENT NISBET: The question is on the motion of Mr. Brake that we recess until 1:30. Those in favor will say aye. Those opposed, no. Just a minute. There is one announcement.

SECRETARY CHASE: Mr. DeVries announces that the meeting of the administration committee scheduled for this noon has been cancelled.

There will be no Republican meeting this noon.

There will be a meeting of the committee on style and drafting 15 minutes after we recess. Bring your own lunch. William B. Cudlip, chairman.

We have the following requests: Mr. Goebel requests to be excused at 4:00 o'clock today to attend a meeting of the board of regents of the university; Messrs. Perlich and L. W. Richards, from this afternoon's session; and Mr. Suzore wishes to be excused from Monday's session.

PRESIDENT NISBET: Without objection, the requests are granted. We are recessed until 1:30.

[Whereupon, at 12:05 o'clock p.m. the convention recessed; and, at 1:30 o'clock p.m., reconvened.]

The convention will please come to order.

SECRETARY CHASE: Mr. President, a quorum of the convention is present.

PRESIDENT NISBET: The secretary has a communication to read.

SECRETARY CHASE: The following communication has been received:

The Senate  
State of Michigan  
Lansing, April 18, 1962.

Michigan Constitutional Convention

Office of the Secretary  
Constitutional Hall  
Lansing Civic Center  
Lansing, Michigan

To the members of the convention:

Your kind expression of my past service with the convention by way of your resolution has been gratefully received by myself.

It was an honor and privilege to serve in the constitutional convention as it now is my further duty to work for Michigan within the state senate.

Thank you so much.

Sincerely,  
Kent T. Lundgren,  
State Senator.

PRESIDENT NISBET: Without objection, it will appear in the journal.

The secretary will read.

SECRETARY CHASE: Coming up at this time is an amendment to the substitute for **Committee Proposal 39**, A proposal with reference to the earmarking of sales tax revenues covering the subject matter of section 23 of article X of the 1908 constitution. Mr. Brake, on behalf of the committee on finance and taxation, has offered the substitute.

Messrs. Heideman and L. W. Richards offer the following amendment to the substitute:

1. Amend the substitute, after "Sec. a.", by striking out the balance of the substitute and reinserting the language of article X, section 23 of the Constitution of 1908.

PRESIDENT NISBET: The Chair recognizes Mr. Heideman.

MR. HEIDEMAN: Mr. President, ladies and gentlemen of the convention, there is no need to go into speeches at this time. I just hope that this second time you will reconsider your votes in this connection in the light of the fact that we voted for earmarking for highways and for other restrictions.

PRESIDENT NISBET: The question is on the amendment of Mr. Heideman. Mr. Brake.

MR. BRAKE: Mr. President, ladies and gentlemen of the convention, the real issue that is involved here is the one that we have just voted upon and turned down, the question of earmarking for schools. All the additional material there would put all the old language of that long section back in the constitution. We have already decided the actual issue in the last vote we took.

PRESIDENT NISBET: Mr. Austin.

MR. AUSTIN: Mr. President, I support the Heideman amendment and demand the yeas and nays.

PRESIDENT NISBET: The yeas and nays have been demanded. Is the demand supported? Sufficient number up. Mr. Downs.

MR. DOWNS: I believe this reconsideration motion is debatable isn't it?

PRESIDENT NISBET: This is not reconsideration, Tom. This is a new amendment.

MR. DOWNS: I am sorry.

PRESIDENT NISBET: The question is on the amendment. The yeas and nays have been demanded. Mrs. Butler.

MRS. BUTLER: I ask your support for this amendment. I realize that this is the day we are having a lot of faith in the legislature, but it just is not my day. I have it every day. I feel that the legislature will enact enough tax to take care of the balance, but on this amendment I have had letters from almost every superintendent in my whole area asking that this 2 cents be retained.

While we are talking about the legislature, last week when we—or a couple of weeks ago—when we were talking about the judges, and we were criticizing the judges for their stand on various things, Dr. Norris made this statement, and I wrote it down so I would have it perfect, "Let us not deprecate but rather elevate that which we criticize." And so I want you to know that I am not criticizing the legislature but I do ask you to support this amendment to get the 2 cents back for our schools.

PRESIDENT NISBET: The Chair recognizes Mr. Barthwell.

MR. BARTHWELL: Mr. President, fellow delegates, I am very much concerned about this situation, too. I can't see how we can stand up and say we have made a deal to put earmarking back in for everything except for the support of schools and the children in this state. So I just feel that this convention will have a lot to answer to the public for if we do not reconsider this situation and put this earmarking back in for the schools.

PRESIDENT NISBET: Mr. Van Dusen.

MR. VANDUSEN: Mr. President, this is exactly the same issue we decided this morning. We went through the arguments then. I move the previous question.

PRESIDENT NISBET: The previous question has been demanded. Is the demand supported? Sufficient number up. The question now is: shall the previous question be put? Those in favor will say aye. Opposed, no.

The previous question is ordered. The question now is on the amendment by Mr. Heideman. The yeas and nays have been ordered. Those in favor of the amendment will vote aye. Those opposed to the amendment 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 — 35

Austin	Follo	Liberato
Balcer	Garvin	Madar
Barthwell	Hannah, J. A.	Mahinske
Binkowski	Hart, Miss	Perras
Bledsoe	Heideman	Sablich
Bradley	Hodges	Stopczynski
Buback	Hoxie	Suzore
Butler, Mrs.	Jones	Wilkowski
Cushman, Mrs.	Kelsey	Woolfenden
Donnelly, Miss	Krolkowski	Young
Downs	Kuhn	Youngblood
Elliott, Mrs. Daisy	Lesinski	

#### Nays — 76

Andrus, Miss	Habermehl	Pugsley
Anspach	Hanna, W. F.	Radka
Baginski	Haskill	Rajkovich
Batchelor	Hatch	Richards, J. B.
Beaman	Higgs	Romney
Bentley	Hubbs	Rood
Blandford	Hutchinson	Rush
Bonisteel	Iverson	Seyferth
Boothby	Judd, Mrs.	Shackleton
Brake	Karn	Shanahan
Brown, G. E.	King	Sharpe
Conklin, Mrs.	Kirk, S.	Sleder
Cudlip	Knirk, B.	Spitler
Danhof	Koeze, Mrs.	Stafseth
Dehnke	Leppien	Staiger
DeVries	McCauley	Stamm
Doty, Dean	McGowan, Miss	Sterrett
Doty, Donald	McLogan	Stevens
Durst	Mosier	Thomson
Elliott, A. G.	Nisbet	Turner
Everett	Page	Upton
Farnsworth	Plank	Van Dusen
Figy	Pollock	Wanger
Gadola	Powell	White
Goebel	Prettie	Yeager
Gover		

SECRETARY CHASE: On the amendment offered by Mr. Heideman and others to reinsert the language of article X, section 23, the yeas are 35; the nays are 76.

PRESIDENT NISBET: The amendment is not adopted. The question now is on the substitute, as amended, as offered by Mr. Brake for the committee. Those in favor of the substitute will vote aye. Those opposed, no.

The substitute, as amended, is adopted. The question now is on Committee Proposal 39, as amended. Those in favor will vote aye. Those opposed will vote nay.

MR. LESINSKI: Mr. President, could the secretary restate the proposal so we will know what we are voting on?

PRESIDENT NISBET: The secretary will read.

SECRETARY CHASE: The proposal, as it now stands, is as follows:

[For Committee Proposal 39 as read by the secretary, see below, page 2641.]

PRESIDENT NISBET: For what purpose does Mrs. Cushman rise?

MRS. CUSHMAN: I just want to announce that I intend to abstain, and I will turn in my reasons.

PRESIDENT NISBET: For what purpose does Mr. Jones rise?

MR. JONES: Mr. President, I should like to be recognized immediately after this vote is taken, please.

PRESIDENT NISBET: 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 — 85

Allen	Habermehl	Radka
Andrus, Miss	Hanna, W. F.	Rajkovich
Anspach	Hannah, J. A.	Richards, J. B.
Baginski	Haskill	Romney
Batchelor	Hatch	Rood
Beaman	Higgs	Rush
Bentley	Howes	Seyferth
Blandford	Hoxie	Shackleton
Bonisteel	Hubbs	Shanahan
Boothby	Hutchinson	Sharpe
Brake	Iverson	Sleder
Conklin, Mrs.	Judd, Mrs.	Spitler
Cudlip	Karn	Stafseth
Danhof	King	Staiger
Dehnke	Kirk, S.	Stamm
DeVries	Knirk, B.	Sterrett
Donnelly, Miss	Koeze, Mrs.	Stevens
Doty, Dean	Leppien	Thomson
Doty, Donald	McAllister	Turner
Durst	McLogan	Tweedie
Elliott, A. G.	Mosier	Upton
Erickson	Nisbet	Van Dusen
Everett	Page	Wanger
Farnsworth	Perras	White
Figy	Plank	Wood
Finch	Powell	Woolfenden
Gadola	Prettie	Yeager
Goebel	Pugsley	Youngblood
Gover		

#### Nays — 31

Austin	Garvin	Madar
Balcer	Hart, Miss	Mahinske
Barthwell	Heideman	McCauley
Binkowski	Hodges	McGowan, Miss
Bledsoe	Jones	Pollock
Bradley	Kelsey	Sablich
Buback	Krolkowski	Stopczynski
Butler, Mrs.	Kuhn	Suzore
Downs	Lesinski	Wilkowski
Elliott, Mrs. Daisy	Liberato	Young
Follo		

SECRETARY CHASE: On the passage of Committee Proposal 39, as amended, the yeas are 85; the nays are 31.

PRESIDENT NISBET: Committee Proposal 39, as amended, is passed.

*Following is statement explaining abstention from voting submitted by Mrs. Cushman:*

I do not wish to vote for a proposal which removes earmarking from school funds while leaving it for roads and cities, but neither do I wish to vote against a proposal which would return needed funds to our cities.

It is referred to the committee on style and drafting.

*Following is Committee Proposal 39 as amended and rereferred to the committee on style and drafting:*

Sec. a. One-eighth of all taxes upon the privilege of selling tangible personal property at retail shall be used exclusively for assistance to cities, villages and townships, on a population basis as provided by law. The legislature may exclude from population any portion of the total number of persons who are wards, patients or convicts of any tax supported institution.

At no time shall the legislature levy a sales tax on retailers at a rate of more than 4 per cent of their gross taxable sales of tangible personal property.

Sec. b. There shall be established a state school aid fund. The legislature may from time to time dedicate certain tax revenues to this fund which shall be used exclusively for the support of public education and for school employees retirement systems, in a manner provided by law.

**PRESIDENT NISBET** (continuing): — The Chair recognizes Mr. Jones.

**MR. JONES:** Mr. President, fellow delegates, I move to reconsider the vote taken on the passage of **Committee Proposal 38**.

*For vote on passage of Committee Proposal 38, see above, page 2635.*

I do so in view of the fact that the delegates assembled, with an assist from the leadership of the MEA, have voted to take away earmarking from the schools, and we should also have an opportunity to decide whether it should not also be stricken from other specialized governmental functions. I also demand the yeas and nays on this motion.

**PRESIDENT NISBET:** The question is on the motion of Mr. Jones that the vote by which Committee Proposal 38 was passed be reconsidered. Those in favor will —

**MR. DOWNS:** Mr. President.

**PRESIDENT NISBET:** Mr. Downs.

**MR. DOWNS:** I wish to speak in favor of the reconsideration motion. You know, sometimes you want the best thing and then the next best, and then we move pretty far down the line. If we certainly had apportionment, I could make very good arguments for no earmarking. Without that, we have made very good arguments for earmarking. But the way we stand now, we will be earmarking for cement, for which there can be good arguments made, but we will not be earmarking for children, for which I think even better arguments can be made. I would hope that, in view of our removing earmarking for education, we would have the opportunity to vote to reconsider our action on having earmarking for roads but not for children.

**PRESIDENT NISBET:** The question is on the motion to reconsider the passage of Committee Proposal 38. The secretary will read the title.

**SECRETARY CHASE:** 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; which was passed this morning. Mr. Jones moves to reconsider the vote by which Committee Proposal 38 was passed.

**PRESIDENT NISBET:** The yeas and nays have been demanded. Is the demand seconded? Sufficient number up. Those in favor of reconsideration of the vote on the passage of Committee Proposal 38 will vote aye. Those opposed to reconsideration will vote nay. The question is on reconsideration. 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 — 34**

Austin	Garvin	Mahinske
Baginski	Hart, Miss	McCauley
Balcer	Heideman	McGowan, Miss
Barthwell	Hodges	Perras
Binkowski	Jones	Pollock
Bledsoe	Kelsey	Rajkovich
Bradley	Kuhn	Sablich
Buback	Lawrence	Stopczynski
Cushman, Mrs.	Lesinski	Wilkowski
Downs	Liberato	Young
Elliott, Mrs. Daisy	Madar	Youngblood
Follo		

**Nays — 75**

Allen	Gover	Richards, J. B.
Andrus, Miss	Habermehl	Romney
Anspach	Haskill	Rood
Batchelor	Hatch	Rush
Beaman	Howes	Seyferth
Bentley	Hoxie	Shackleton
Blandford	Hubbs	Shanahan
Bonisteel	Hutchinson	Sharpe
Boothby	Iverson	Sleder
Brake	Judd, Mrs.	Spitler
Conklin, Mrs.	Karn	Stafseth
Cudlip	King	Staiger
Danhof	Kirk, S.	Stamm
Dehnke	Knirk, B.	Sterrett
Dell	Koeze, Mrs.	Stevens
Doty, Dean	Leppien	Suzore
Doty, Donald	McAllister	Thomson
Durst	McLogan	Turner
Elliott, A. G.	Mosier	Upton
Everett	Nisbet	Van Dusen
Farnsworth	Page	Wanger
Figy	Plank	White
Finch	Powell	Wood
Gadola	Prettie	Woelfenden
Goebel	Pugsley	Yeager

**SECRETARY CHASE:** On the motion of Mr. Jones to reconsider the vote by which Committee Proposal 38 was passed, the yeas are 34; the nays are 75.

**PRESIDENT NISBET:** The motion does not prevail. The secretary will read the next proposal.

**SECRETARY CHASE:** Item 10 on the calendar, **Committee Proposal 51**, A proposal setting up the uniform rule of taxation for providing for equalization a maximum limit for assessments, prohibiting a graduated income tax, and covering the subject matter of sections 3, 4, 7 and 8 of article X of the 1908 constitution.

*Following is Committee Proposal 51 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 909.):*

Sec. a. The legislature shall provide [by law a] **FOR THE** uniform [rule governing the] general ad valorem taxation of real [property] and tangible personal property[.] **NOT EXEMPT BY LAW.** The legislature shall provide [by law] for the determination of true cash value of such property; [and shall specify] the proportion of true cash value at which such property shall be uniformly assessed, which shall not, after January 1, 1966, exceed 50 per cent[.] ; and [shall provide by law] for a system of equalization of assessments. The legislature may provide [by law for exemption of such property from taxation, or] for alternative means of taxation of [such] **DESIGNATED REAL AND TANGIBLE PERSONAL** property in lieu of general ad valorem taxation, [uniform upon the class or classes of property to which such alternative means are applied].

Every [other] tax **OTHER THAN THE GENERAL AD VALOREM PROPERTY TAX** shall be uniform upon the class or classes on which it operates. No income tax graduated as to rate or base shall be imposed by the state or any of its subdivisions.

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

**PREAMBLE**

- I. DECLARATION OF RIGHTS
  - II. ELECTIONS
  - III. GENERAL GOVERNMENT
  - IV. LEGISLATIVE BRANCH
  - V. EXECUTIVE BRANCH
  - VI. JUDICIAL BRANCH
  - VII. LOCAL GOVERNMENT
  - VIII. EDUCATION
  - IX. FINANCE AND TAXATION
  - X. PROPERTY
  - XI. PUBLIC OFFICERS AND EMPLOYMENT
  - XII. AMENDMENT AND REVISION
- SCHEDULE AND TEMPORARY PROVISIONS

**PREAMBLE**

We, the people of the State of Michigan, grateful to Almighty God for the blessings of freedom, and earnestly desiring to secure these blessings undiminished to ourselves and our posterity, do ordain and establish this constitution.

**ARTICLE I  
DECLARATION OF RIGHTS**

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3.	Right of Assembly and Petition .... 15- 2
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**Article I****Declaration of Rights**

Sec. 1. All political power is inherent in the people. Government is instituted for their equal benefit, security and protection.

Sec. 2. No person shall be denied the equal protection of the laws; nor shall any person be denied the enjoyment of his civil or political rights or be discriminated against in the exercise thereof because of race, COLOR, religion, sex or national origin. The legislature shall implement this section by appropriate legislation. This SECTION shall not be construed to [prevent] PROHIBIT reasonable [classification] LEGISLATION for the protection of women.

Sec. 3. The people have the right peaceably to assemble, to consult for the common good, to instruct their representatives and to petition the government for redress of grievances.

Sec. 4. Every person shall be at liberty to worship God according to the dictates of his own conscience. No person shall be compelled to attend, or, against his consent, to contribute to the erection or support of any place of religious worship, or to pay tithes, taxes or other rates for the support of any minister of the gospel or teacher of religion. No money shall be appropriated or drawn from the treasury for the benefit of any religious sect or society, theological or religious seminary; nor shall property belonging to the state be appropriated for any such purpose. The civil and political rights, privileges and capacities of no person shall be diminished or enlarged on account of his religious belief.

Sec. 5. Every person may freely speak, write, express[,] and publish his views on all subjects, being responsible for the abuse of such right; and no law shall be [passed] ENACTED to restrain or abridge the liberty of speech or of the press.

Sec. 6. Every person has a right to keep and bear arms for the defense of himself and the state.

Sec. 7. The military shall in all cases and at all times be in strict subordination to the civil power.

Sec. 8. No soldier shall, in time of peace, be quartered in any house without the consent of the owner or occupant, nor in time of war, except in a manner prescribed by law.

Sec. 9. Neither slavery, nor involuntary servitude unless for the punishment of crime, shall

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ever be tolerated in this state.

Sec. 10. No bill of attainder, ex post facto law or law impairing the obligation of contract shall be ENACTED [passed].

Sec. 11. The person, houses, papers and possessions of every person shall be secure from unreasonable searches and seizures. No warrant to search any place or to seize any person or things shall issue without describing them, nor without probable cause, supported by oath or affirmation. The provisions of this section shall not be construed to bar from evidence in any criminal proceeding[,] any narcotic drug, [any] firearm, bomb, explosive[,] or any other dangerous weapon, seized by A [any] peace officer outside the curtilage of any dwelling house in this state.

Sec. 12. The privilege of the writ of habeas corpus shall not be suspended unless in case of rebellion or invasion the public safety may require it.

Sec. 13. [Any] A suitor in any court of this state [shall have] HAS the right to prosecute or defend his suit, either in his own proper person or by an attorney.

Sec. 14. The right of trial by jury shall remain, but shall be [deemed to be] waived in all civil cases unless demanded by one of the parties in THE [such] manner [as shall be] prescribed by law. In all civil [actions in circuit courts] CASES TRIED BY 12 JURORS a verdict shall be received when 10 jurors [shall] agree.

Sec. 15. No person shall be subject for the same offense to be twice put in jeopardy. All persons shall, before conviction, be bailable by sufficient sureties, except for murder and treason when the proof is evident or the presumption great.

Sec. 16. Excessive bail shall not be required; excessive fines shall not be imposed; cruel or unusual punishment shall not be inflicted; nor shall witnesses be unreasonably detained.

Sec. 17. No person shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property, without due process of law. The right of all individuals, firms, corporations and voluntary associations to fair and just treatment in the course of legislative and executive investigations and hearings shall not be infringed.

Sec. 18. No person shall be rendered incompetent to be a witness on account of his opinions on matters of religious belief.

Sec. 19. In all prosecutions for libels the truth may be given in evidence to the jury; and, if it appears to the jury that the matter charged as libelous is true and was published with good motives and for justifiable ends, the accused shall be acquitted.

Sec. 20. In every criminal prosecution, the accused shall have the right to a speedy and public trial by an impartial jury, which may consist of

less than 12 jurors in all courts not of record; to be informed of the nature of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; to have the assistance of counsel for his defense; to have an appeal as a matter of right; and in courts of record, when the trial court so orders, to have such reasonable assistance as may be necessary to perfect and prosecute an appeal.

Sec. 21. No person shall be imprisoned for debt arising out of[,] or founded on contract, express or implied, except in cases of fraud or breach of trust.

Sec. 22. Treason against the state shall consist only in levying war against it or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless upon the testimony of [2] TWO witnesses to the same overt act[,] or on confession in open court.

Sec. 23. The enumeration in this constitution of certain rights shall not be construed to deny or disparage others retained by the people.

## ARTICLE II ELECTIONS

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1. Qualifications .....	58a
2. Legislature may exclude certain persons from voting .....	58b
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## Article II Elections

Sec. 1. Every citizen of the United States who has attained the age of 21 years, who has resided in this state [6] SIX months, and who meets the requirements of local residence provided by law, shall be an elector and qualified to vote in any election except as otherwise provided in this constitution. The legislature shall define residence for voting purposes.

Sec. 2. The legislature may by law exclude persons from voting because of mental incompetence[,] or commitment to a jail or penal institution.

Sec. 3. For purposes of voting in the election for president and vice-president of the United States only, the legislature may by law establish lesser residence requirements for citizens who have resided in this state for less than [6] SIX months and may waive residence requirements [of] FOR FORMER citizens of this state who have

1 removed [t]herefrom. The legislature [may pro-  
2 vide the manner of voting by such persons but]  
3 shall not permit voting by any [such] person who  
4 meets the voting residence requirements of the  
5 state to which he has removed.

6 Sec. 4. The legislature shall enact laws to reg-  
7 ulate the time, place [,] and manner of all nom-  
8 inations and elections, except as otherwise pro-  
9 vided in this constitution or in the constitution  
10 and laws of the United States. The legislature  
11 shall enact laws to preserve the purity of elec-  
12 tions, to preserve the secrecy of the ballot, to  
13 guard against abuses of the elective franchise,  
14 and to provide for a system of voter registration  
15 and absentee voting. No law shall be enacted  
16 which permits a candidate in any partisan pri-  
17 mary or partisan election to have a ballot desig-  
18 nation except when required for identification  
19 of [persons who are] candidates for the same  
20 office WHO [and] have the same or similar sur-  
21 names.

22 Sec. 5. Except for special elections to fill va-  
23 cancies, OR AS OTHERWISE PROVIDED IN  
24 THIS CONSTITUTION, all elections for national,  
25 state, county and township offices shall be held on  
26 the first Tuesday after the first Monday in Novem-  
27 ber in each even-numbered year[,] or on such  
28 other date as MEMBERS OF THE CONGRESS  
29 OF THE UNITED STATES ARE REGULARLY  
30 ELECTED [may hereafter be provided by the  
31 Constitution of the United States or by congress  
32 for election of members thereof].

33 Sec. 6. Whenever any question is REQUIRED  
34 TO BE submitted BY A POLITICAL SUBDIVI-  
35 SION to [a vote of] the electors which involves  
36 THE INCREASE OF ANY AD VALOREM TAX  
37 RATE LIMITATION FOR A PERIOD OF MORE  
38 THAN FIVE YEARS, the direct expenditure  
39 of public money, OR the issue of bonds, [or the  
40 increase of any ad valorem tax rate for a period  
41 of more than 5 years,] only [persons having the  
42 qualifications of] electors in, and who have prop-  
43 erty assessed for any ad valorem taxes in, any  
44 part of the district or territory to be affected  
45 by the result of such election or the lawful hus-  
46 bands or wives of such persons shall be entitled  
47 to vote thereon. All ELECTORS IN THE DIS-  
48 TRICT OR TERRITORY AFFECTED [persons  
49 having the qualifications of electors] may vote  
50 on all other questions, [involving an increase in  
51 any ad valorem tax rate and on borrowing by  
52 this state.]

53 Sec. 7. A board of state canvassers [consisting]  
54 of [4] FOUR members shall be established by law.  
55 No candidate for an office to be canvassed nor any  
56 inspector of elections shall be eligible to serve as  
57 a member of a board of canvassers. A majority  
58 of any board of canvassers shall not be composed  
59 of members of the same political party.

60 Sec. 8. Laws shall be enacted to provide for the

recall of all elective officers except judges of courts  
of record upon petition of electors equal in number  
to 25 percent of the number of persons voting [at]  
IN the last preceding election for the office of  
governor in the electoral district of the officer  
sought to be recalled. THE SUFFICIENCY OF  
any statement of reasons or grounds procedurally  
required shall be [deemed to pose] a political rather  
than a judicial question.

Sec. 9. The people reserve to themselves the  
power to propose laws and to enact and reject laws,  
called the initiative, and the power to reject laws  
enacted by the legislature, called the referendum.  
The power of initiative extends only to laws which  
the legislature may enact under this constitution.  
The power of referendum does not extend to acts  
making appropriations for state institutions or to  
meet deficiencies in state funds AND MUST BE  
INVOKED IN THE MANNER PRESCRIBED BY  
LAW WITHIN 90 DAYS FOLLOWING THE  
FINAL ADJOURNMENT OF THE LEGISLA-  
TIVE SESSION AT WHICH THE LAW WAS  
ENACTED. To invoke the initiative or referen-  
dum, petitions signed by a number of registered  
electors, not less than [8] EIGHT percent for initia-  
tive and [5] FIVE percent for referendum of the  
total vote cast for all candidates for governor at  
the last preceding general election AT WHICH A  
GOVERNOR WAS ELECTED shall be required.

NO LAW AS TO WHICH THE POWER OF  
REFERENDUM PROPERLY HAS BEEN IN-  
VOKED SHALL BE EFFECTIVE THEREAFTER  
UNLESS APPROVED BY A MAJORITY OF  
THE ELECTORS VOTING THEREON AT THE  
NEXT GENERAL ELECTION.

[The] ANY law proposed by initiative petition  
shall be either enacted or rejected by the legisla-  
ture without change or amendment within 40 days  
from the time such petition is received by the legis-  
lature. If any law proposed by such petition shall  
be enacted by the legislature it shall be subject to  
referendum, as hereinafter provided.

If the law so [petitioned for] PROPOSED is not  
enacted by the legislature within the 40 days, the  
state officer authorized by law shall submit such  
proposed law to the people for approval or rejec-  
tion at the next [ensuing] general election. The  
legislature may reject any measure so proposed  
by initiative petition and propose a different meas-  
ure upon the same subject by a yea and nay vote  
upon separate roll calls, and in such event both  
measures shall be submitted by such state officer  
to the electors for approval or rejection at the  
next [ensuing] general election.

Any [act] LAW submitted to the people by either  
initiative or referendum petition and approved by  
a majority of the votes cast thereon at any election  
shall take effect 10 days after the date of the  
official declaration of the vote. No [act] LAW

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



initiated or adopted by the people shall be subject to the veto power of the governor, and no [act] LAW adopted by the people at the polls under the initiative provisions of this section shall be amended or repealed, except by a vote of the electors or [3/4] THREE-FOURTHS of the members elected to and serving in each house of the legislature. [Acts] LAWS adopted by the people under the referendum provision of this section may be amended by the legislature at any subsequent session thereof. If [2] TWO or more measures approved by the electors at the same election conflict, THAT [the measure] receiving the highest affirmative vote shall prevail.

The legislature shall implement the provisions of this section.

### ARTICLE III GENERAL GOVERNMENT

Sec.	Com. Proposal
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2. Division of Powers .....	21a
3. Great Seal .....	18a
4. Militia .....	19a
5. Inter-Governmental Agreements ...	128a
6. Internal Improvement .....	101a
7. Laws remain in effect .....	44a
8. Advisory Opinions .....	96k

#### Article III General Government

Sec. 1. The seat of government shall be at Lansing.

Sec. 2. The powers of government are divided into [3] THREE branches: legislative, executive[,] and judicial. No person [belonging to] EXERCISING POWERS OF one branch shall exercise powers properly belonging to another branch[,] except [in] AS [cases] expressly provided in this constitution.

Sec. 3. There shall be a great seal of the State of Michigan and its use shall be [prescribed] PROVIDED by law.

Sec. 4. The militia shall be organized, equipped and disciplined as provided by law.

Sec. 5. Subject to provisions of general law, this state or any political subdivision, ANY GOVERNMENTAL AUTHORITY or any combination thereof may enter into agreements[,] for the performance, financing or execution of their respective [governmental] functions, with any one or more of the other states, the United States, the Dominion of Canada, or any political subdivision thereof unless otherwise provided in this constitution.

Any other provision of this constitution [to the contrary] notwithstanding, an officer or employee of the state or OF any [municipal corporation or other subdivision or agency] SUCH UNIT OF GOVERNMENT OR SUBDIVISION

OR AGENCY thereof may serve on or with any governmental body ESTABLISHED FOR THE PURPOSES SET FORTH IN THIS SECTION [as a representative of the state or any municipal corporation or other subdivision or agency thereof, or for the purpose of participating or assisting in the consideration or performance of joint or cooperative undertakings or for the study of governmental problems,] and shall not be required to relinquish his office or employment by reason of such service. The legislature [by statute] may impose such restrictions, limitations or conditions on such service as it may deem appropriate.

Sec. 6. The state shall not be a party to, nor be financially interested in, any work of internal improvement, nor engage in carrying on any such work, except for public internal improvements [authorized] PROVIDED by law.

Sec. 7. [All law not repugnant to this constitution,] THE COMMON LAW AND THE STATUTE LAWS NOW IN FORCE, NOT REPUGNANT TO THIS CONSTITUTION, shall remain in force until [changed, repealed or in the case of statutes they have expired because of limitations contained therein] THEY EXPIRE BY THEIR OWN LIMITATIONS, OR ARE CHANGED, AMENDED OR REPEALED.

Sec. 8. Either house of the legislature or the governor may request the opinion of the supreme court [up]on important questions of law upon solemn occasions as to the constitutionality of legislation after it has been enacted into law but before its effective date.

### ARTICLE IV LEGISLATIVE BRANCH

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7		First sentence .....	121a
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30	43.	Banking and trust company laws ....	5a
31	44.	Jury in civil cases .....	99a
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33	46.	Prohibition against death penalty ....	20a
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#### Article IV

##### Legislative Branch

Sec. 1. The legislative power of the State of Michigan is vested in a senate and a house of representatives.

Sec. 2. The senate shall consist of 38 members[,] to be elected from single member districts at the same [time] ELECTION as the governor for [4] FOUR-year terms concurrent with the term of office of the governor.

In districting the state for the purpose of electing senators after the official publication of the total population count of each federal decennial census, each county shall be assigned an apportionment factor equal to the sum of its percentage of the state's population as shown by the last regular federal decennial census computed to the nearest [1/100] ONE-ONE HUNDREDTH of one percent multiplied by [4] FOUR and its per-

centage of the state's land area computed to the nearest [1/100] ONE-ONE HUNDREDTH of one percent.

In arranging the state into senatorial districts, the apportionment commission shall be governed by the following rules:

(1) Counties with 13 or more apportionment factors shall be entitled as a class to senators in the proportion that the total apportionment factors of such counties bear to the total apportionment factors of the state computed to the nearest whole number. After each such county has been allocated one senator, the remaining senators to which this class of counties [are] IS entitled shall be distributed among such counties by the method of equal proportions applied to the apportionment factors.

(2) Counties having less than 13 apportionment factors shall be entitled as a class to senators in the proportion that the total apportionment factors of such counties bear to the total apportionment FACTORS of the state computed to the nearest whole number. Such counties shall thereafter be arranged into senatorial districts that are compact, convenient, and contiguous by land, as rectangular in shape as possible, and having as nearly as possible 13 apportionment factors, but in no event less than 10 or more than 16. Insofar as possible, existing senatorial districts at the time of reapportionment shall not be altered unless there [shall be] IS a failure to comply with the above standards.

(3) Counties entitled to [2] TWO or more senate districts shall be [further sub]divided into single member districts. The population of such districts shall be as nearly equal as possible but shall not be less than 75 percent nor more than 125 percent of a number determined by dividing the population of the county by the number of senators to which it is entitled. Each such district shall follow incorporated city or township boundary lines to the extent possible and shall be compact, contiguous, and as nearly uniform in shape as possible.

Sec. 3. The house of representatives shall consist of 110 members elected for [2] TWO-year terms from single member districts apportioned on a basis of population as [hereinafter] provided IN THIS ARTICLE. The districts shall consist of compact and convenient territory contiguous by land.

Each county which has a population of not less than [7/10] SEVEN-TENTHS of one percent of the population of the state shall constitute a separate representative area. Each county having less than [7/10] SEVEN-TENTHS of one percent of the population of the state shall be combined with another county or counties to form a representative area of not less than [7/10] SEVEN-

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

TENTHS of one percent of the population of the state. Any county which is isolated under the initial allocation as [herein] provided IN THIS SECTION shall be joined with that contiguous representative area having the smallest percentage of the state's population. Each such representative area shall be entitled initially to one representative.

After the assignment of one representative to each of the representative areas, the remaining house seats shall be apportioned among the representative areas on the basis of population by the method of equal proportions.

Any county comprising a representative area entitled to [2] TWO or more representatives shall be divided into single member representative districts as follows:

(1) The population of [each] SUCH districtS shall be as nearly equal as possible but shall not be less than 75 percent nor more than 125 percent of a number determined by dividing the population of the representative area by the number of representatives to which it is entitled.

(2) Such single member districts shall follow city and township boundaries where applicable and shall be composed of compact and contiguous territory as nearly square in shape as possible.

Any representative area consisting of more than one county, entitled to more than one representative, shall be divided into single member districts as equal as possible in population adhering to county lines.

Sec. 4. In counties having more than one representative or senatorial district, the territory in the same county annexed to or merged with a city between apportionments shall become a part of a contiguous representative or senatorial district in the city with which it is combined upon the effective date of the annexation or merger[.]. THE DISTRICTS WITH WHICH THE TERRITORY SHALL BE COMBINED SHALL BE [as] determined by ordinance of the city certified to the secretary of state.

[No legislator shall be deemed to have vacated his office by virtue of the above section.] NO SUCH CHANGE IN THE BOUNDARIES OF A REPRESENTATIVE OR SENATORIAL DISTRICT SHALL HAVE THE EFFECT OF REMOVING A LEGISLATOR FROM OFFICE DURING HIS TERM.

Sec. 5. ISLAND AREAS ARE CONSIDERED TO BE CONTIGUOUS BY LAND TO THE COUNTY OF WHICH THEY ARE A PART.

Sec. 6. A commission on legislative apportionment is hereby established consisting of [8] EIGHT persons, [4] FOUR of whom shall be selected by the state organizations of each of the [2] TWO political parties whose candidates for governor received the highest vote at the last general election AT WHICH A GOVERNOR WAS ELECTED preceding each apportionment. If a candidate for

governor of a third political party has received at such election more than 25 percent of such gubernatorial vote, the commission shall consist of 12 members, [4] FOUR of whom shall be selected by the state organization of the third political party. One member of the commission shall be selected by each political party organization from each of the following [4] FOUR regions: (1) The upper peninsula; (2) The northern part of the lower peninsula, north of a line drawn along the northern boundaries of the counties of Bay, Midland, Isabella, Mecosta, Newaygo and Oceana; (3) Southwestern Michigan, those counties south of region (2) and west of a line drawn along the western boundaries of the counties of Bay, Saginaw, Shiawassee, Ingham, Jackson and Hillsdale; (4) Southeastern Michigan, the remaining counties of the state.

No officers or employees of the federal, state or local governments, excepting notaries public and members of the armed forces reserve, shall be eligible for membership on the commission. Members of the commission shall not be eligible for election to the legislature until [2] TWO years after the apportionment [plan] in which they participated becomes effective.

The commission shall be appointed immediately after the adoption of this constitution and whenever [Re]apportionment or districting OF THE LEGISLATURE is required by the provisions of this constitution. Members of the commission shall hold office until each apportionment or districting plan becomes effective. Vacancies shall be filled in the same manner as for original appointment.

The secretary of state shall be secretary of the commission without vote, and in that capacity shall furnish, under the direction of the commission, all necessary technical services. The commission shall elect its own chairman, shall make its own rules of procedure, and shall receive compensation provided by law. The legislature shall appropriate funds [necessary] to enable the commission to carry out its activities.

Within 30 days after the adoption of this constitution, and after the official total population count of each federal decennial census of the state and its political subdivisions is available, the secretary of state shall issue a call convening the commission not less than 30 nor more than 45 days thereafter. The commission shall complete its work within 180 days after all necessary census information is available. The commission shall proceed to DISTRICT AND apportion[, and district,] the senate and house of representatives according to the provisions of this constitution. All final decisions shall require the concurrence of a majority of [all of] the members of the commission. The commission shall hold public hearings as may be provided by law.

Each final apportionment and districting plan shall be published as provided by law within 30 days from the date of its adoption and shall become law 60 days after publication. The secretary of state shall keep a public record of all the proceedings of the commission and shall be responsible for the publication and distribution of each plan.

If a majority of the commission cannot agree on a plan, each member of the commission, individually or jointly with other members, may submit a proposed plan to the supreme court. The supreme court shall determine which plan complies most accurately with the constitutional requirements and shall direct that it be adopted BY THE COMMISSION and published as provided in this section.

Upon the application of any [qualified] elector filed not later than 60 days after final publication of the plan, the supreme court, in the exercise of original jurisdiction, shall direct the secretary of state or the apportionment commission to perform their duties, may review any final plan adopted by the commission, and shall make orders amending such plan if it fails to comply with the requirements of this constitution.

Sec. 7. Each senator and representative MUST [shall] be a citizen of the United States, at least 21 years of age, and AN [a qualified] elector of the district he represents[,] . [and] The removal of his domicile from the district shall be deemed a vacation of the office. No person who has been convicted of subversion or who has within the preceding 20 years been convicted of a felony involving a breach of public trust shall be eligible for either house of the legislature.

Sec. 8. No person holding any office under the United States or this state or a political subdivision thereof, except notaries public and officers of the armed forces reserve, may be a member of either house of the legislature.

Sec. 9. No person elected TO [a member of] the legislature shall receive any civil appointment within this state from the governor, except notaries public, [from the governor and senate,] from the legislature, or from any other state authority, during the term for which he is elected.

Sec. 10. No member of the legislature nor any state officer shall be interested directly or indirectly in any contract with the state or any political subdivision thereof which shall cause a substantial conflict of interest. The legislature shall further implement this provision by appropriate legislation.

Sec. 11. Senators and representatives shall be privileged from civil arrest and civil process during sessions of the legislature and for [5] FIVE days next before the commencement and after the termination thereof. They shall not be questioned in any other place for any speech in either

house.

Sec. 12. The annual salary of the members of the legislature shall be not less than \$9,000[.], AS PROVIDED BY LAW. Members of the legislature shall be entitled to REIMBURSEMENT FOR [2] TWO round trips home EACH [per] month while the legislature is in session, and expenses in connection with the work of interim committees. [No] ChangeS in salary or expenses shall beCOME effective [during the term of office for which the legislature making the change was elected] ONLY WHEN LEGISLATORS COMMENCE THEIR TERM OF OFFICE AFTER A GENERAL ELECTION except and only to the extent of a general salary reduction in all other branches of STATE government.

No person serving in the legislature shall receive at any time for his services as a member of the legislature any additional fees, compensation or financial benefits from the state or its political subdivisions. This section shall not be construed to [deny] AFFECT retirement benefits [to those] OF legislators [eligible to receive] WHICH HAVE [these benefits at] ACCRUED PRIOR TO the [time] EFFECTIVE DATE OF this constitution [becomes effective].

Sec. 13. The legislature shall meet at the seat of government on the second Wednesday in January of each year at [12:00] TWELVE o'clock noon. Each regular session shall adjourn without day, on a day determined by concurrent resolution, at TWELVE [12:00] o'clock noon. Any business, bill or joint resolution pending at the final adjournment of a regular session held in an odd numbered year shall carry over WITH THE SAME STATUS to the next regular session.

Sec. 14. A majority of the members elected to and serving in each house shall constitute a quorum to do business. A smaller number in each house may adjourn from day to day, and may compel the attendance of absent members in the manner and with penalties as each house may prescribe.

Sec. 15. There shall be a bi-partisan legislative council consisting of legislators appointed in the manner prescribed by law. The legislature shall appropriate [adequate] funds for the council's operations and provide for its staff which shall maintain bill drafting, research and other services for the members of the legislature. The council shall PERIODICALLY [from time to time] examine and recommend to the legislature revision of the various laws of the state.

Sec. 16. Each house, except as otherwise provided in this constitution, shall choose its own officers and determine the rules of its proceedings, but shall not adopt any rule that will prevent a majority of the members elected thereto and serving therein from discharging a committee

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

1 from the further consideration of any measure.  
2 Each house shall BE THE SOLE judge of the  
3 qualifications, elections and returns of its mem-  
4 bers, and may, with the concurrence of TWO-  
5 THIRDS [2/3] of all the members elected thereto  
6 and serving therein, expel a member. The reasons  
7 for such expulsion shall be entered IN [upon] the  
8 journal, with the [yeas and nays] VOTES AND  
9 NAMES of the members voting upon the ques-  
10 tion. No member shall be expelled a second time  
11 for the same cause.

12 Sec. 17. Each house of the legislature may  
13 establish the committees necessary for the effi-  
14 cient conduct of its business and the legislature  
15 may create joint committees. Each committee  
16 shall [keep a recorded] BY roll call vote RECORD  
17 THE VOTE AND NAME [by yeas and nays] of  
18 all action on bills and resolutions taken in the  
19 committee. Such vote shall be available FOR [to]  
20 public inspection. Notice of all committee hear-  
21 ings and a clear statement of all subjects to be  
22 considered at each hearing shall be published in  
23 the journal in advance of the hearing.

24 Sec. 18. Each house shall keep a journal of  
25 its proceedings, and publish the same unless se-  
26 curity otherwise requires. The [yeas and nays]  
27 RECORD OF THE VOTE AND NAME of the  
28 members of either house VOTING on any question  
29 shall be entered in the journal at the request of  
30 [1/5] ONE-FIFTH of the members present. Any  
31 member of either house may dissent from and  
32 protest against any act, proceeding or resolution  
33 which he deems injurious to any person or the  
34 public, and have the reason for his dissent entered  
35 in the journal.

36 Sec. 19. All elections in either house or in  
37 joint convention and all votes on appointments  
38 [recommended to the senate for confirmation]  
39 SUBMITTED TO THE SENATE FOR ADVICE  
40 AND CONSENT shall be [taken by yeas and  
41 nays and] published BY VOTE AND NAME in  
42 the journal.

43 Sec. 20. The doors of each house shall be open  
44 unless the public security otherwise requires.

45 Sec. 21. Neither house shall, without the con-  
46 sent of the other, adjourn for more than [3] TWO  
47 INTERVENING CALENDAR days, nor to any  
48 place other than where the legislature may then  
49 be in session.

50 Sec. 22. All legislation [by the legislature]  
51 shall be by bill and may originate in either house.

52 Sec. 23. The style of the laws shall be: The  
53 People of the State of Michigan enact.

54 Sec. 24. No law shall embrace more than one  
55 object, which shall be expressed in its title. No  
56 bill shall be altered or amended on its passage  
57 through either house so as to change its original  
58 purpose as determined by its total content and  
59 not alone by its title.

60 Sec. 25. No law shall be revised, altered or

1 amended by reference to its title only. The section  
2 or sections of the act altered or amended shall  
3 be re-enacted and published at length.

4 Sec. 26. No bill shall be passed or become a  
5 law at any regular session of the legislature until  
6 it has been printed or reproduced and in the pos-  
7 session of each house for at least [5] FIVE days.  
8 Every bill shall be read THREE [3] times in each  
9 house before the final passage thereof. No bill  
10 shall become a law without the concurrence of a  
11 majority of [all] the members elected to and  
12 serving in each house. On the final passage of [all]  
13 bills, the voteS AND NAMES OF THE MEMBERS  
14 VOTING THEREON shall be [by yeas and nays  
15 and] entered in the journal.

16 Sec. 27. No act shall take effect [or be in force]  
17 until the expiration of 90 days from the end of  
18 the session at which it was passed, but the legis-  
19 lature may give immediate effect to acts by a [2/3]  
20 TWO-THIRDS vote of the members elected to and  
21 serving in each house.

22 Sec. 28. When the legislature is convened on  
23 extraordinary occasions in special session no bill  
24 shall be passed on any subjects other than those  
25 expressly stated in the governor's proclamation  
26 or submitted by special message.

27 Sec. 29. The legislature shall pass no local  
28 or special act in any case where a general act can  
29 be made applicable, and whether a general act  
30 can be made applicable shall be a judicial question.  
31 No local or special act shall take effect until  
32 approved by TWO-THIRDS [2/3] of the mem-  
33 bers elected to and serving in each house [of the  
34 legislature] and by a majority of the electors vot-  
35 ing thereon in the district [to be] affected. Any  
36 act repealing local or special acts [in effect as of  
37 the effective date of this constitution] shall re-  
38 quire only a majority of the members elected to  
39 and serving in each house and shall not require  
40 submission to the electors of such district.

41 Sec. 30. The assent of TWO-THIRDS [2/3] of  
42 the members elected to and serving in each house  
43 of the legislature shall be required for the appro-  
44 priation of public money or property for local or  
45 private purposes.

46 Sec. 31. The general appropriation bills for the  
47 succeeding fiscal period covering items set forth  
48 in the budget shall be passed or rejected in either  
49 house of the legislature before that house passes  
50 any appropriation bill for items not in the budget  
51 except bills supplementing appropriations for the  
52 current FISCAL year's operation. Any bill re-  
53 quiring an appropriation to carry out its purpose  
54 shall be considered an appropriation bill. One of  
55 the general appropriation bills as passed by the  
56 legislature shall contain an itemized statement of  
57 estimated revenue by major source in each oper-  
58 ating fund for the ensuing fiscal period, the total  
59 of which shall not be less than the total of all  
60 appropriations made from each fund in the gen-

eral appropriation bills as passed.

Sec. 32. Every law which imposes, continues or revives a tax shall distinctly state the tax.

Sec. 33. Every bill passed by the legislature shall be presented to the governor before it becomes law, and the governor shall have 14 days measured in hours and minutes from the time of presentation in which to consider it. If he approves, he shall within that time sign and file it with the secretary of state and it shall become law. If he does not approve, and the legislature has within that time finally adjourned the session at which the bill was passed, it shall not become law. If he does not approve, and the legislature continues the session at which the bill was passed, he shall return it within such 14-day period with his objections, to the house in which it originated. That house shall enter such objections in full in its journal and reconsider the bill. If TWO-THIRDS [2/3] of the members elected TO and serving in that house pass the bill notwithstanding the objections of the governor, it shall be sent with the objections to the other house for reconsideration. The bill shall become law if passed by TWO-THIRDS [2/3] of the members elected TO and serving in that house. The vote of each house shall be [determined by the yeas and nays, and the names of the members voting for and against the bill shall be] entered in the journal WITH THE VOTES AND NAMES OF THE MEMBERS VOTING THEREON. If any bill is not returned by the governor within such 14-day period, the legislature continuing in session, it shall become law as if he had signed it.

Sec. 34. Any bill passed by the legislature and approved by the governor, except A BILL appropriATING MONEY [ion bills], may [be referred by the legislature to the qualified electors. No bill so referred shall] PROVIDE THAT IT WILL NOT become [a] law unless approved by a majority of the electors voting thereon.

Sec. 35. All laws enacted at any session of the legislature shall be published in book form within 60 days after final adjournment of the session, and shall be distributed in the manner provided by law. The [speedy] PROMPT publication of judicial decisions shall be provided by law. All laws and judicial decisions shall be free for publication by any person.

Sec. 36. No general revision of the laws shall [hereafter] be made. The legislature may provide for a compilation of the laws in force, arranged without alteration, under appropriate heads and titles.

Sec. 37. The legislature may by concurrent resolution empower a joint committee of the legislature acting [in the interim] between sessions to suspend until the end of the next regular legislative session any rule or regulation [promulgated

by] OF an administrative agency PROMULGATED when the legislature is not in regular session.

Sec. 38. The legislature may provide by law the cases in which any office shall be [deemed] vacant and the manner of filling vacancies[,] where no provision is made in this constitution.

Sec. 39. In order to insure continuity of state and local governmental operations in periods of emergency only, resulting from disasters occurring in this state CAUSED by enemy attack on the United States, the legislature MAY [shall have the power to such extent as it deems advisable (1) to] provide by [legislative enactment] LAW for prompt and temporary succession to the powers and duties of public offices, of whatever nature and whether filled by election or appointment, the incumbents of which may become unavailable for carrying on the powers and duties of such offices[,] and ENACT [(2) to adopt by legislative enactment such] other [legislation] LAWS [as may be] necessary and proper for insuring the continuity of governmental operations. Notwithstanding the power conferred by this section, elections shall always be called as soon as possible to fill any [elective] vacancies in [any] ELECTIVE offices temporarily occupied by operation of any legislation enacted pursuant to the provisions of this section.

Sec. 40. The legislature may by law establish a liquor control commission[,] which, subject to statutory limitations, shall exercise complete control of the alcoholic beverage traffic within this state, including the retail sales thereof. [and] THE LEGISLATURE may provide for an excise tax on such sales. Neither the legislature nor the commission may authorize the manufacture or sale of alcoholic beverages in any county in which a majority of the electors voting thereon shall prohibit the same.

Sec. 41. The legislature shall not authorize any lottery nor permit the sale of lottery tickets.

Sec. 42. The legislature may provide for the incorporation of ports and port districts, and confer power and authority upon them to engage in work of internal improvements in connection therewith.

Sec. 43. No general law providing for the incorporation of trust companies or corporations for banking purposes, or regulating the business thereof, shall be enacted, amended or repealed except by a vote of [2/3] TWO-THIRDS of the members elected to and serving in each house [of the legislature].

Sec. 44. The legislature may authorize a trial by a jury of less than 12 jurors in civil cases.

Sec. 45. The legislature may provide for indeterminate sentences as [a] punishment for crime and for the detention and release of per-

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



sons imprisoned or detained [on] UNDER such sentences.

Sec. 46. No law shall be enacted providing for the penalty of death.

Sec. 47. The legislature may authorize the employment of chaplains in state institutions of DETENTION OR confinement.

Sec. 48. The legislature may enact laws providing for the resolution of disputes [in] CONCERNING public [employment] EMPLOYEES, except THOSE IN THE state classified civil service.

Sec. 49. The legislature may enact laws relative to the hours and conditions of employment.

Sec. 50. The legislature may provide safety measures and regulate the use of atomic energy and forms of energy developed in the future, having in view the general welfare of the people of this state.

Sec. 51. The public health and general welfare of the people of the state are hereby declared to be matters of primary public concern. The legislature shall pass suitable laws for the protection and promotion of the public health.

Sec. 52. The conservation and development of the natural resources of the state are hereby declared to be of paramount public concern in the interest of the health, safety[,] and general welfare of the people. The legislature shall provide for the protection of the air, water[,] and other natural resources of the state from pollution, impairment and destruction.

Sec. 53. The legislature by a majority vote of the members elected to and serving in each house, shall appoint an auditor general, who shall be [an administrator and] a certified public accountant [duly] licensed to practice in this state, to serve for a term of [8] EIGHT years. He shall be ineligible for appointment or election to any other [paid] public office in this state FROM WHICH COMPENSATION IS DERIVED while serving as auditor general and for [2] TWO years following the termination of his service. He may be removed for cause at any time by a [2/3] TWO-THIRDS vote of the members elected to and serving in each house [of the legislature]. The auditor general shall conduct post audits of financial transactions and accounts of the state and of all branches, departments, offices, boards, commissions, agencies, authorities and institutions of the state established by this constitution or by law, and performance post audits thereof.

The auditor general upon direction by the legislature may employ independent accounting firms or legal counsel and may make investigations pertinent to the conduct of audits. He shall report annually to the legislature and to the governor and at such other times as he deems necessary or as required by the legislature. He shall be assigned no duties other than those [herein]

specified IN THIS SECTION.

Nothing in this section shall be construed in any way to infringe the responsibility and constitutional authority of the governing boards of the [universities and colleges] INSTITUTIONS OF HIGHER EDUCATION to be solely responsible for the control and direction of all expenditures from the institutions' funds.

[The legislature shall provide by law for the maintenance of uniform accounting systems by units of local government and the auditing of county accounts by competent state authority and other units of government as provided by law.]

The auditor general, his deputy and one other member of his staff shall be exempt from classified civil service. All other members of his staff shall have classified civil service status.

## ARTICLE V

### EXECUTIVE BRANCH

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## Article V Executive Branch

Sec. 1. The executive power is vested in the governor.

Sec. 2. All executive and administrative offices, agencies and instrumentalities of the EXECUTIVE BRANCH OF state government and their respective functions, powers and duties, except for the office of governor and lieutenant governor and the governing bodies of institutions of higher education provided for in this constitution, shall be allocated by law among and within not more than 20 principal departments. They shall be grouped as far as practicable according to major purposes.

Subsequent to the initial allocation, the governor may make changes in the organization of the executive branch or in the assignment of functions among its units which he considers necessary for efficient administration. Where these changes require the force of law, they shall be set forth in executive orders AND SUBMITTED TO THE LEGISLATURE. THEREAFTER the legislature shall have 60 CALENDAR days of a regular session, or a full session if of shorter duration, to disapprove [these] EACH executive order[s]. Unless disapproved in both houses by a resolution concurred in by a majority of the members elected to and serving in each house, [these] EACH order[s] shall become effective at a date thereafter to be designated by the governor.

Sec. 3. The head of each principal department shall be a single executive unless otherwise provided in this constitution or by law. The single executives heading principal departments shall include a secretary of state, a state treasurer and an attorney general. When a single executive [other than an elective official,] is the head of a principal department, UNLESS ELECTED OR APPOINTED AS OTHERWISE PROVIDED IN THIS CONSTITUTION, he shall be [nominated and,] APPOINTED BY THE GOVERNOR by and with the advice and consent of the senate[, appointed by the governor] and he shall serve at the pleasure of the governor.

When a board or commission is at the head of a principal department, [the members thereof,] unless elected or appointed as otherwise provided in this constitution, THE MEMBERS THEREOF shall be [nominated and,] APPOINTED BY THE GOVERNOR by and with the advice and consent of the senate[, appointed by the governor]. The term of office and procedure for removal of such members shall be as prescribed in this constitution or by law.

Terms of office of any board or commission

created or enlarged after [adoption] THE EFFECTIVE DATE of this constitution shall not exceed [4] FOUR years except as otherwise authorized in this constitution. The terms of office of existing boards and commissions[,] which are [greater] LONGER than [4] FOUR years shall not be further extended except as provided in this constitution.

Sec. 4. At no time shall an examining or licensing board of a profession INCLUDE [be composed of] less than a majority of members of that profession. Temporary commissions or agencies for special purposes with a life of no more than [2] TWO years may be established by law and need not be allocated within a principal department.

Sec. 5. Appointment by and with the advice and consent of the senate when used in this constitution or [in statutes] LAWS in effect or hereafter enacted means appointment subject to disapproval by a majority vote of the members elected to and serving in the senate if such action is taken within 60 [legislative] SESSION days after the date of such appointment. [If the] ANY appointment [is] not disapproved within such period [of time the appointment] shall stand confirmed.

Sec. 6. [When the senate is not in session, the governor shall fill a vacancy] VACANCIES in any office, appointment to which requires advice and consent of the senate, [by appointment which may be disapproved by the senate in the manner provided for other] SHALL BE FILLED BY THE GOVERNOR BY AND WITH THE ADVICE AND CONSENT OF THE SENATE. [appointments requiring such advice and consent.] A person [who] WHOSE APPOINTMENT has been disapproved by the senate shall not be eligible for [another] AN interim appointment to the same office.

Sec. 7. Each principal department shall be under the supervision of the governor[, unless otherwise provided by this constitution. The governor shall take care that the laws be faithfully executed. He shall transact all necessary business with the officers of government and may require information in writing from all executive and administrative state officers, elective and appointive, upon any subject relating to the duties of their respective offices.

The governor may initiate court proceedings in the name of the state to enforce compliance with any constitutional or legislative mandate, or to restrain violations of any constitutional or legislative power, duty[, or right by any officer, department[, or agency of the state or any of its political subdivisions. This authority shall not be construed to authorize court proceedings against the legislature.

Sec. 8. Single executives heading principal departments and the chief executive officers of

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

principal departments headed by boards or commissions shall keep their offices at the seat of government except as otherwise provided by law, superintend them in person and perform duties prescribed by law.

Sec. 9. The governor shall have power and it shall be his duty[,] to inquire into the condition and administration of any public office and the acts of any public officer, elective or appointive. He may remove or suspend from office for gross neglect of duty or for corrupt conduct in office, or FOR any other misfeasance or malfeasance therein, any elective or appointive state officer, except legislative or judicial, and report the [causes of] REASONS FOR such removal or suspension to the legislature. [if in session or otherwise at its next session.]

Sec. 10. The governor may make a provisional appointment to fill a vacancy occasioned by the suspension of an appointed or elected officer, other than a [judicial] LEGISLATIVE OR JUDICIAL officer, until he is REINSTATED [acquitted] or[, if convicted,] until the vacancy is filled in the manner prescribed by law or this constitution [for such office].

Sec. 11. The governor shall be commander-in-chief of the armed forces and may call them out to execute the laws, suppress insurrection and repel invasion.

Sec. 12. The governor shall issue writs of election to fill vacancies in the senate or house of representatives. Any such election shall be held in a manner prescribed by law.

Sec. 13. The governor shall have power to grant reprieves, commutations and pardons after convictions for all offenses, except cases of impeachment, upon such conditions and limitations as he may direct, subject to procedures and regulations [provided] PRESCRIBED by law. He shall inform the legislature annually of each reprieve, commutation and pardon granted, stating reasons therefor.

Sec. 14. The governor may convene the legislature on extraordinary occasions.

Sec. 15. The governor may convene the legislature at some other place when the seat of government becomes dangerous from any cause.

Sec. 16. The governor shall communicate by message to the legislature at the beginning of each session and may at other times present to the legislature information as to the affairs of the state and recommend measures he considers necessary or desirable.

Sec. 17. The governor shall submit to the legislature at a time fixed by law, a budget for the ensuing fiscal period setting forth in detail, for all operating funds, the proposed expenditures and estimated revenue of the state. Proposed expenditures from any fund shall not exceed the estimated revenue thereof. On the same date, the

governor shall submit to the legislature general appropriation bills to embody the proposed expenditures and any necessary bill or bills to provide new or additional revenues to meet proposed expenditures. The amount of any surplus created or deficit incurred in any fund during the last preceding fiscal period shall be entered as an item in the budget and in one of the appropriation bills. The governor may submit amendments to appropriation bills to be offered in either house during consideration of the bill by that house, and shall submit any bills to meet deficiencies in current appropriations.

Sec. 18. The governor [shall have power to] MAY disapprove any distinct item or items APPROPRIATING MONEYS in any appropriation bill. The part or parts approved shall become law, and the item or items disapproved shall be void unless re-passed according to the method prescribed for the passage of other bills over the executive veto.

Sec. 19. No appropriation shall be [deemed] a mandate to spend. The governor, with the approval of the appropriating committees of the house and senate, shall reduce expenditures AUTHORIZED BY [of any bodies receiving] appropriations whenever it appears that actual revenues for a fiscal period will fall below the revenue estimates on which appropriations for that period were based. Reductions in expenditures shall be made in accordance with procedures [established] PRESCRIBED by law. The governor[']s power to reduce expenditures shall not apply to] MAY NOT REDUCE EXPENDITURES OF the legislative and judicial branches or FROM [to those services for which] funds CONSTITUTIONALLY DEDICATED FOR SPECIFIC PURPOSES. [are mandated by this constitution.]

Sec. 20. The governor, lieutenant governor, secretary of state and attorney general shall be elected FOR FOUR-YEAR TERMS at the general election in each alternate even-numbered year. [They shall serve for terms of 4 years beginning at 12:00 o'clock noon on the first day of January next succeeding their election.]

The lieutenant governor, secretary of state and attorney general shall be nominated by party conventions in a manner prescribed by law. In the general election one vote shall be cast jointly for the candidates for governor and lieutenant governor nominated by the same party.

VACANCIES IN THE OFFICE OF THE SECRETARY OF STATE AND ATTORNEY GENERAL SHALL BE FILLED BY APPOINTMENT BY THE GOVERNOR.

Sec. 21. [No person shall] TO be eligible for the office of governor or lieutenant governor [who shall not have] A PERSON MUST HAVE attained the age of 30 years, and [who shall] have [not] been [4 years next preceding his election] a registered elector in this state FOR FOUR

YEARS NEXT PRECEDING HIS ELECTION.

Sec. 22. The governor, lieutenant governor, secretary of state[, state treasurer ] and attorney general shall each receive the compensation [prescribed] PROVIDED by law in full payment for all services performed and expenses incurred during his term of office. Such compensation shall not be changed during the term of office except as otherwise provided in this constitution.

Sec. 23. An executive residence suitably furnished shall be provided at the seat of government for the use of the governor. He shall receive an allowance for its maintenance as provided by law.

Sec. 24. The lieutenant governor shall be president of the senate, but shall have no vote except in case of equal division. He [shall] MAY perform [additional] duties [as] requested of him by the governor[.], BUT NO POWER VESTED IN THE GOVERNOR SHALL BE DELEGATED.

Sec. 25. In case of the conviction of the governor on impeachment, his removal from office, his resignation, or [the] HIS death, [of the governor or governor-elect, the powers and duties of the office shall vest, in the following order of precedence, in the person elected at the last election to the office of] THE lieutenant governor, THE ELECTED secretary of state, THE ELECTED attorney general, and such other persons designated by law[, who] shall IN THAT ORDER be governor [after the commencement of their term] for the [residue] REMAINDER of the governor's term.

IN CASE OF THE DEATH OF THE GOVERNOR-ELECT, THE LIEUTENANT GOVERNOR-ELECT, THE SECRETARY OF STATE-ELECT, THE ATTORNEY GENERAL-ELECT AND SUCH OTHER PERSONS DESIGNATED BY LAW SHALL BECOME GOVERNOR IN THAT ORDER AT THE COMMENCEMENT OF THE GOVERNOR-ELECT'S TERM.

If the governor or the person in line of succession to serve as governor is absent from the state, or suffering under an inability [as determined herein], the powers and duties of the office of governor shall devolve in order of precedence [upon such persons] until the absence or inability giving rise to the DEVOLUTION [devolvment] of powers ceases.

The inability of the governor[, governor-elect] or person[s serving] ACTING as governor shall be determined by a majority of the supreme court on joint request of the president pro tempore of the senate and the speaker of the house of representatives. Such determination shall be final and conclusive. The supreme court shall upon its own initiative determine if and when the inability ceases.

Sec. 26. The legislature shall provide that the

salary of any state officer WHILE ACTING AS [performing the duties of] governor [is] SHALL BE equal to that of the governor.

Sec. 27. There is hereby established a state highway commission, which shall administer the state highway department and have jurisdiction and control over all state trunkline highways and appurtenant facilities, and such other public works of the state, as [shall be prescribed] PROVIDED by law.

The state highway commission shall consist of [4] FOUR members, not more than [2] TWO of whom shall be members of the same political party. They shall be appointed by the governor BY AND with the advice and consent of the senate for [4] FOUR-year terms, no [2] TWO of which shall expire in the same year AS PROVIDED BY LAW.

The state highway commission shall appoint AND MAY REMOVE a state highway director, who shall be a competent highway engineer and administrator. He shall be the PRINCIPAL [chief] executive OFFICER of the state highway department and shall be responsible for executing the policy of the state highway commission.

Sec. 28. There is hereby established a civil rights commission which shall consist of [8] EIGHT persons, not more than [4] FOUR of whom shall be members of the same political party, who shall be appointed by the governor, with the advice and consent of the senate, for [4] FOUR-year terms not more than [2] TWO of which shall expire in the same year. It shall be the duty of the commission in a manner which may be prescribed by law to investigate alleged discrimination against any person because of [race] religion, RACE, color or national origin in the enjoyment of the civil rights guaranteed by law and by this constitution, and to secure the equal protection of such civil rights without such discrimination. The legislature shall provide an annual appropriation for the effective operation of the commission.

The commission shall have [the] power, in accordance with the provisions of this constitution and of general laws governing administrative agencies, to promulgate rules and regulations for its own procedures, to hold hearings, administer oaths, through court authorization to require the attendance of witnesses and the submission of records, to take testimony, and to issue appropriate orders. The commission shall have other powers provided by law to carry out its purposes. Nothing contained in this section shall be construed to diminish the right of any party to direct and immediate legal or equitable remedies in the courts of this state.

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

## ARTICLE VI JUDICIAL BRANCH

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### Article VI Judicial Branch

Sec. 1. The judicial power of the state is vested exclusively in one court of justice[,] which shall be divided into one supreme court, one court of appeals, one trial court of general jurisdiction known as the circuit court, one probate court, and other courts of limited jurisdiction that the legislature may establish by a [2/3] TWO-THIRDS vote of the members ELECTED TO AND SERVING IN [of] each house.

Sec. 2. The supreme court shall consist of [8] SEVEN justices [to be] elected at non-partisan elections as provided by law. [A vacancy hereafter created as the result of the death, retirement or resignation of one incumbent justice shall not be filled.] The term of office shall be [for 8] EIGHT years and not more than [3] TWO terms of office shall expire at the same time. Nominations for justices of the supreme court shall be in the manner [as provided] PRESCRIBED by law[.]. [except] Any incumbent justice whose term is to expire may become a candidate for re-election by filing an affidavit of candidacy, in the form and manner prescribed by law, not less than 180

days prior to the expiration of his term.

Sec. 3. One justice of the supreme court shall be selected by the court as its chief justice AS [in the manner and for the term] provided by [the] rules of the court. He shall perform other duties required by the court. The supreme court shall appoint an administrator of the courts and other assistants of the supreme court as [shall] MAY be [deemed] necessary to aid in the administration of the courts of this state. The administrator shall perform administrative duties assigned by the court.

Sec. 4. The supreme court shall have general superintending control over all courts; power to issue, hear, and determine prerogative and remedial writs; and appellate jurisdiction as provided by rules of the supreme court. The supreme court shall not have the power to remove a judge.

Sec. 5. The supreme court shall by general rules establish, modify, amend and simplify the practice and procedure in all courts of this state. The distinctions between law and equity proceedings shall, as far as practicable, be abolished. The office of master in chancery is prohibited.

Sec. 6. Decisions of the supreme court, including all decisions on prerogative writs, shall be in writing and shall contain a concise statement of the facts and reasons for each decision and reasons for each denial of leave to appeal. When a judge dissents in whole or in part he shall give in writing the reasons for his dissent.

Sec. 7. The supreme court may appoint, may remove, and shall have general supervision of its staff. It shall have control of the preparation of its budget recommendations and the expenditure of [the funds] MONEYS appropriated for any purpose pertaining to the operation of the court or the performance of activities of its staff except that the salaries of the justices shall be established by law. All fees and perquisites collected by the court staff shall be turned over to the state treasury and credited to the general fund.

Sec. 8. The court of appeals shall consist initially of [9] NINE judges who shall be nominated and elected [on a] AT non-partisan ELECTIONS [basis] from districts, and in the manner, prescribed by law. The supreme court may prescribe by rule that the court of appeals may sit in divisions and for the terms of court and the times and places thereof. Each such division shall consist of not fewer than three judges. The number of judges comprising the court of appeals may be increased, and the districts from which they are elected may be [altered] CHANGED by law.

Sec. 9. Judges of the court of appeals shall hold office for a TERM [period] of [6] SIX years and until their successors are elected and qualified. The terms of office for the judges in each district shall be arranged by law to provide that not all terms will expire at the same time.

Sec. 10. The jurisdiction of the court of appeals shall be provided by law and the practice and procedure therein shall be [as provided] PRE-SCRIBED by rules of the supreme court.

Sec. 11. The state shall be divided into judicial circuits along county lines in each of which there shall be elected one or more circuit judges as provided by law. [A] SESSIONS OF THE circuit court shall be held at least [4] FOUR times in each year in every county organized for judicial purposes. Each circuit judge shall hold court in the county or counties within the circuit in which he is elected, and in other circuits as may be provided by rules of the supreme court. The number of judges may be changed and circuits may be created, altered and discontinued by law and the number of judges shall be changed and circuits shall be created, altered and discontinued on recommendation of the supreme court to reflect changes in judicial activity. No change in the number of judges [n]or alteration or discontinuance of a circuit shall have the effect of removing a judge from office during his term.

Sec. 12. Circuit judges shall be nominated and elected at non-partisan elections in the circuit in which they reside, and shall hold office for a TERM [period] of [6] SIX years and until their successors are elected and qualified. In circuits having more than one circuit judge their terms of office shall be arranged by law to provide that not all terms will expire at the same time.

Sec. 13. THE circuit court[s] shall have original jurisdiction in all matters not prohibited by law; appellate jurisdiction from all inferior courts and tribunals except as otherwise provided by law; power to issue, hear and determine prerogative and remedial writs; supervisory and general control over inferior courts and tribunals within their respective jurisdictions[,] in accordance with rules of the supreme court; and jurisdiction of other cases and matters as provided by rules of the supreme court.

Sec. 14. The clerk of each county organized for judicial purposes or other officer performing the duties of such office as provided in a county charter shall be clerk of the circuit court for such county. The judges of the circuit court[s] may fill [any] A vacancy in an elective office of county clerk or prosecuting attorney within their respective jurisdictions.

Sec. 15. In each county organized for judicial purposes[,] there shall be a probate court. The legislature may [combine one or more counties into] CREATE OR ALTER probate COURT districts OF MORE THAN ONE COUNTY [upon the approval by a majority of the voters of each county voting separately on the question,] IF AP-PROVED IN EACH AFFECTED COUNTY BY A MAJORITY OF THE ELECTORS VOTING ON THE QUESTION. [or combine] THE LEGISLA-

TURE MAY PROVIDE FOR THE COMBINATION OF the office of probate judge with any judicial office of limited jurisdiction [in any] WITHIN A county with supplemental salary as provided by law. The jurisdiction, powers and duties of the probate court[s] and of the judges thereof shall be [prescribed] PROVIDED by law. They shall [also] have original jurisdiction in all cases of juvenile delinquents and dependents, except as otherwise provided by law.

Sec. 16. ONE OR MORE judges of probate AS PROVIDED BY LAW shall be nominated and elected at non-partisan elections in the counties or the probate districtS in which they reside and shall hold office for [a period] TERMS of [6] SIX years and until their successors are elected and qualified. In counties or districts with more than one judge the terms of office shall be arranged by law to provide that NOT all terms will [not] expire at the same time.

Sec. 17. No judge or justice of any court of this state shall be paid from the fees of his office nor shall the amount of his salary be measured by fees, other moneys received or [by] the amount of judicial activity of his office.

Sec. 18. Salaries of justices of the supreme court, of the judges of the court of appeals, of the circuit judges within a [county or] circuit, and of the probate judges within a county or district, shall be uniform, and may be increased, but shall not be decreased during a term of office except and only to the extent of a general salary reduction in all other branches of government.

Each of the judges of the circuit court[s] shall receive an annual salary as provided by law. In addition to the salary received from the state, [treasury,] each circuit judge may receive from any county in which he regularly holds court [such] AN additional salary as [may be] determined from time to time by the board of supervisors of the county. In any county where [such] AN additional salary is granted, it shall be paid at the same rate to all circuit judges regularly holding court therein.

Sec. 19. The supreme court, the court of appeals, the circuit court, the probate court and other courts designated as such by the legislature shall be courts of record and [shall] each SHALL have a common seal. [Except as otherwise authorized by this constitution,] Justices and judges of [the] courts of record [of this state shall] MUST be PERSONS WHO ARE licensed to practice law in this state. [and] No person shall be elected or appointed to a judicial office after reaching the age of 70 years.

Sec. 20. Whenever a JUSTICE OR judge removes his domicile beyond the limits of the territory from which he was elected, he shall [be deemed to] have vacated his office.

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



Sec. 21. Any justice or judge of a court of record shall be ineligible to be nominated for or elected to an elective office other than a judicial office during the period of his service [as a judge] and for one year thereafter.

Sec. 22. Any elected judge of [a] THE court of appeals, circuit court or probate court may become a candidate in the primary election for the office of which he is the incumbent by filing an affidavit of candidacy in the form and manner [provided] PRESCRIBED by law.

Sec. 23. A vacancy in the elective office of a judge of any court of record shall be filled at a general or special election AS PROVIDED BY [according to] law. The supreme court may authorize persons who have served as judges and who have retired, to perform judicial duties for the limited period of time from the occurrence of the vacancy until the successor is elected and qualified. SUCH PERSONS SHALL BE INELIGIBLE FOR ELECTION TO FILL THE VACANCY.

Sec. 24. There shall be printed upon the ballot under the name of each elected incumbent justice or judge[,] who is a candidate for nomination or election to the same office[,] the designation of that office.

Sec. 25. For reasonable cause, which is not sufficient ground for impeachment, the governor shall remove any judge on a concurrent resolution of [2/3] TWO-THIRDS of the members elected to and serving in each house of the legislature. The cause for removal shall be stated at length in [such] THE resolution.

Sec. 26. The offices of circuit court commissioner and justice of the peace shall be abolished at the expiration of [5] FIVE years from the date this constitution becomes effective or may within this period be abolished by law. Their jurisdiction and powers within this period shall be as provided by law. Within [such] THIS [5] FIVE-year period, the legislature shall establish a court or courts of limited jurisdiction with powers and jurisdiction defined by law. The location of such court or courts, and the qualifications, tenure, method of election[,] and salary of the judges of such court or courts, and by what governmental units the JUDGES [same] shall be paid, shall be provided by law, subject to the limitations contained in this Article.

Statutory courts in existence at the time this constitution becomes effective shall retain their powers and jurisdiction, except as provided by law, until they are abolished by law.

Sec. 27. The supreme court, the court of appeals, the circuit court, or any justices or judges thereof, shall not exercise any power of appointment to public office except as [otherwise] provided in this constitution.

Sec. 28. All final decisions, findings, rulings

and orders of any administrative officer or [body] AGENCY existing under the constitution or by law, which are judicial or quasi-judicial and affect private rights [,] or licenses, shall be subject to direct review by the courts as [shall be] provided by law. This review shall include, as a minimum, the determination whether such final decisions, findings, rulings and orders are authorized by law[.]; and, in cases in which a hearing is required, whether the same are supported by competent, material[,] and substantial evidence on the whole record[:]. [Provided however, that the] Findings of fact [of the] IN workmen's compensation [commission] PROCEEDINGS shall be conclusive in the absence of fraud unless otherwise provided by law.

Sec. 29. Justices of the supreme court, judges of the court of appeals, circuit judges[,] and other judges as provided by law shall be conservators of the peace within their respective jurisdictions.

## ARTICLE VII LOCAL GOVERNMENT

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## Article VII

### Local Government

Sec. 1. Each organized county shall be a body corporate with powers and immunities [prescribed] PROVIDED by law.

Sec. 2. Any county may frame, adopt, amend or repeal a county charter in a manner and with powers and limitations to be provided by general law, which shall among other things provide for the election of a charter commission. The law may permit the organization of county government in form different from that set forth in this constitution and shall limit the rate of ad valorem property taxation for county purposes, and restrict THE [their] powers of CHARTER COUNTIES TO borrow[ing] money and contract[ing] debts. Each charter county is hereby granted power to levy other taxes for county purposes subject to limitations and prohibitions set forth in this constitution or law. Subject to law, a county charter may authorize the county through its regularly constituted authority to [enact] ADOPT resolutions and ordinances relating to its concerns.

The board of supervisors by a majority vote of its members may, and upon petition of [5] FIVE percent of the electors shall, place upon the ballot the question of electing a commission to frame a charter.

No county charter shall be adopted, amended or repealed until approved by a majority of electors voting on the question.

Sec. 3. No organized county shall be reduced by the organization of new counties to less than 16 townships as surveyed by the United States, unless APPROVED in [pursuance of] THE MANNER PRESCRIBED BY law BY a majority of electors voting [on] THEREON [the question] in each county to be affected. [thereby shall so decide.]

Sec. 4. There shall be elected for [4] FOUR-year terms in each organized county a sheriff, a county clerk, a county treasurer, a register of deeds and a prosecuting attorney, whose duties and powers shall be [prescribed] PROVIDED by law. The board of supervisors in any county may COMBINE [unite] the offices of county clerk and register of deeds in one office or separate the same

at pleasure.

Sec. 5. The sheriff, county clerk, county treasurer and register of deeds shall hold their principal offices at the county seat.

Sec. 6. The sheriff may be required by law to renew his security [from time to time] PERIODICALLY and in default of giving such security, his office shall be [deemed] vacant. The county shall never be responsible for his acts, except that the board of supervisors may protect him against claims by prisoners for unintentional injuries received while in his custody. He shall not hold any other office except in [connection with] civil defense.

Sec. 7. A board of supervisors shall be established in each ORGANIZED county consisting of one member from each organized township and such representation from cities as [shall be prescribed] PROVIDED by law.

Sec. 8. [The] Boards of supervisors shall have LEGISLATIVE, ADMINISTRATIVE [such] AND SUCH OTHER powers and duties as provided by law [not inconsistent with this constitution].

Sec. 9. [The] Boards of supervisors shall have exclusive power to fix the compensation of [all] county [officials] OFFICERS not otherwise provided [for] by law.

Sec. 10. [No] A county seat once established shall NOT be removed until the place to which it is proposed to be [re]moved shall be designated by [2/3] TWO-THIRDS of the MEMBERS OF THE board of supervisors [of the county,] and a majority of the electors voting thereon shall have [voted in favor of] APPROVED the proposed location in [a] THE manner prescribed by law.

Sec. 11. No county shall incur any indebtedness which shall increase its total debt beyond 10 percent of its assessed valuation.

Sec. 12. [No] A navigable stream [of this state] shall NOT be bridged or dammed without permission granted by the board of supervisors of the county [under the provisions of] AS PROVIDED BY law, which permission shall be subject to such reasonable compensation and other conditions as may seem best suited to safeguard the rights and interests of the county and POLITICAL SUBDIVISIONS [the municipalities] therein.

Sec. 13. Two or more CONTIGUOUS counties may combine into a single county [provided] IF APPROVED IN EACH AFFECTED COUNTY BY a majority of the [voters] ELECTORS voting on the question. [of each county, voting separately, approve such combination and the counties are contiguous.]

Sec. 14. The board of supervisors of each organized county may organize and consolidate townships under restrictions and limitations [prescribed] PROVIDED by law.

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

Sec. 15. Any county, when authorized by its BOARD OF SUPERVISORS [legislative body] shall have the authority to enter or to intervene in any ACTION [suit] or certificate proceeding involving the services, charges or rates of any privately owned public utility furnishing services or commodities to rate payers within the county.

Sec. 16. The legislature may provide for the laying out, construction, improvement and maintenance of highways, bridges, culverts and airports by the state and by the counties and townships thereof; and may authorize counties to take charge and control of any highway within their limits for such purposes. The legislature may [also prescribe] PROVIDE the powers and duties of counties in relation to highways, bridges, culverts and airports; may provide for county road commissioners to be appointed or elected, with powers and duties [as may be prescribed] PROVIDED by law. The ad valorem property tax IMPOSED for road purposes by any county shall not exceed in any year [1/2] ONE-HALF of one percent of the assessed valuation for the preceding year.

Sec. 17. Each organized township shall be a body corporate with powers and immunities [prescribed] PROVIDED by law [and not inconsistent with this constitution].

Sec. 18. IN EACH ORGANIZED TOWNSHIP there shall be elected for [a] terms of not less than [2 years] TWO nor more than [4] FOUR years as [provided] PRESCRIBED by law [in each organized township] a [township] supervisor, a [township] clerk, a [township] treasurer, and[,] not to exceed [4 township] FOUR trustees, whose legislative and administrative powers and duties shall be [prescribed] PROVIDED by law.

Sec. 19. No ORGANIZED township shall grant any public utility franchise which is not subject to revocation at the will of the township, unless the proposition shall FIRST have BEEN APPROVED BY [first received the affirmative vote of] a majority of the electors of such township voting thereon at a regular or special election.

Sec. 20. The legislature shall provide by law for the dissolution of township government whenever all the territory of [a] AN ORGANIZED township is included within the boundaries of a village or villages NOTWITHSTANDING THAT A VILLAGE MAY INCLUDE TERRITORY WITHIN ANOTHER ORGANIZED TOWNSHIP and provide by law for the classification of such village or villages as cities [notwithstanding that a village may include territory within another township].

Sec. 21. The legislature shall provide by general laws for the incorporation of cities and villages[;] . [such general laws] SUCH LAWS shall limit their rate of [general] AD VALOREM property taxation for municipal purposes, and

restrict [their] THE powers of CITIES AND VILLAGES TO borrow[ing] money and contract[ing] debts. Each city and village is granted power to levy other taxes for public purposes, subject to limitations and prohibitions provided by this constitution or by law.

Sec. 22. Under general laws the electors of each city and village shall have the power and authority to frame, adopt[,] and amend its charter, and to amend an existing charter of the city or village heretofore granted or enacted by the legislature for the government of the city or village. Each such city and village shall have power to [pass] ADOPT resolutions and ordinances relating to its municipal concerns, property and government, subject to the constitution and law. No enumeration of powers granted to cities and villages in this constitution shall [be deemed to] limit or restrict the general grant of authority conferred by this section.

Sec. 23. Any city or village may acquire, own, establish and maintain, within or without its corporate limits, parks, boulevards, cemeteries, hospitals[,] and all works which involve the public health or safety.

Sec. 24. Subject to this constitution, any city or village may acquire, own[,] and operate, within or without its corporate limits, public service facilities for supplying water, light, heat, power, sewage disposal and transportation to the municipality and the inhabitants thereof.

Any city or village may sell and deliver heat, power[, and] OR light without its corporate limits [to] IN an amount not [to exceed] EXCEEDING 25 percent of that furnished by it within the corporate limits, except as greater amounts may be permitted by law; may sell and deliver water and provide sewage disposal services[,] outside of its corporate limits in such amount as may be determined by the legislative body of the city or village; and may operate transportation lines [without] OUTSIDE the municipality within such limits as may be prescribed by law.

Sec. 25. No city or village shall acquire any public utility furnishing light, heat [and] OR power, or grant any public utility franchise which is not subject to revocation at the will of the city or village, unless the proposition shall FIRST have been approved by [3/5] THREE-FIFTHS of the electors voting thereon. No city or village may sell any such public utility unless the proposition shall FIRST have been approved by a majority of the electors voting thereon, or a greater number if the charter shall so provide.

Sec. 26. Except as otherwise provided in this constitution, no city or village shall have the power to loan its credit for any private purpose or, except as [authorized] PROVIDED by law, for any public purpose.

Sec. 27. Notwithstanding any other provision

of this constitution the legislature may establish in metropolitan areas additional forms of government or authorities with powers, duties and jurisdictions as the legislature shall provide. Whenever possible, such additional forms of government or authorities shall be designed to perform multi-purpose functions rather than a single function.

Sec. 28. The legislature by general law shall authorize two or more counties, cities, villages, townships or districts, or any combination thereof among other things to: enter into contractual undertakings or agreements with one another or with the state or with any combination thereof for the joint administration of any of the functions or powers which each would have the power to perform separately; share the costs and responsibilities of functions and services with one another or with the state or with any combination thereof which each would have the power to perform separately; transfer functions or responsibilities to one another or any combination thereof upon the consent of each unit involved; cooperate with one another and with state government [and with intergovernmental agencies]; lend their credit to one another or any combination thereof as PROVIDED [prescribed] by law in connection with any authorized publicly owned undertaking.

Any other provision of this constitution notwithstanding, an officer or employee of the state or any [of] such unit[s] of government or subdivision or agency thereof, except members of the legislature, may serve on or with any governmental body established for the [above] purposes SET FORTH IN THIS SECTION and shall not be required to relinquish his office or employment by reason of such service.

Sec. 29. No person, partnership, association or corporation, public or private, operating a public utility shall have the right to the use of the highways, streets, alleys or other public places of any county, city, village or township for wires, poles, pipes, tracks, conduits or other utility facilities, without the consent of the duly constituted authority of the county, city, village or township; or to transact local business therein without first obtaining a franchise from the city, village or township. Except as otherwise [authorized] PROVIDED in this constitution the right of all counties, cities, villages and townships to the reasonable control of their highways, streets, alleys and public places is hereby reserved to such local units of government.

Sec. 30. No franchise or license shall be granted by any city, village or township for a [longer] period LONGER than 30 years.

Sec. 31. The legislature shall not vacate or alter any road, street, alley, or public place under the jurisdiction of any county, township, city or village.

Sec. 32. Any county, township, city, village, authority or school district empowered by the legislature or by this constitution to prepare budgets of estimated expenditures and revenues shall adopt [said] SUCH budgets only after a public hearing in a manner prescribed by law.

Sec. 33. The provisions of this constitution and law concerning cities, villages, counties and townships shall be liberally construed in their favor. Powers granted to counties and townships by this constitution and by law shall include those fairly implied and not [inconsistent with nor] prohibited by this constitution.

## ARTICLE VIII EDUCATION

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## Article VIII Education

Sec. 1. Religion, morality and knowledge being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged.

Sec. 2. The legislature shall maintain and support a system of free public elementary and secondary schools as defined by law. Every school district shall provide for the education of its pupils without discrimination as to race, creed, religion, color[,] or national origin.

Sec. 3. Leadership and general supervision over all public education, including adult education and instructional programs in state institutions, except as to [degree granting] institutions of higher education GRANTING BACCALAUREATE DEGREES, is vested in a state board of education. It shall serve as the general planning and coordinating body for all public education, including higher education, and shall advise the legislature as to the financial requirements in connection therewith.

The state board of education shall appoint a superintendent of public instruction whose term of office shall be determined by the board. He shall be the chairman of the board without the right to vote, and shall be responsible for the execution of its policies. He shall be the [chief administrative] PRINCIPAL EXECUTIVE officer of a state department of education which shall

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

have powers and duties provided by law.

The state board of education shall consist of [8] EIGHT members[,] WHO [Of the members first elected 2 shall serve for 2 years, 2 for 4 years, 2 for 6 years and 2 for 8 years, and their successors shall be elected for terms of 8 years. Each member] shall be nominated by party conventionS and elected at large FOR TERMS OF EIGHT YEARS as prescribed by law. The governor shall fill any vacancy by appointment for the unexpired term. The governor shall [also] be ex-officio a member of the state board of education without the right to vote.

The power of the boards of institutions of higher education provided in this constitution to supervise their respective institutions and control and direct the expenditure of the institutions' funds shall not be limited by this section.

Sec. 4. The legislature shall appropriate MONEYS [funds] to maintain the University of Michigan, Michigan State University, Wayne State University, Eastern Michigan University, Michigan College of Science and Technology, Central Michigan University, Northern Michigan University, Western Michigan University, Ferris Institute, Grand Valley State College, by whatever names [said] SUCH institutions may hereafter be known, and other institutions of higher education established by law. The legislature shall be given an annual accounting of all income and expenditures by each of these educational institutions. Formal sessions of governing boards of such institutions shall be open to the public.

Sec. 5. The regents of the University of Michigan and their successors in office shall constitute a body corporate known as the Regents of the University of Michigan; the trustees of Michigan State University and their successors in office shall constitute a body corporate known as the Board of Trustees of Michigan State University; the governors of Wayne State University and their successors in office shall constitute a body corporate known as the Board of Governors of Wayne State University. [These] EACH board[s] shall have [the] general supervision of [their respective] ITS institution[s] and the control and direction of all expenditures from the institution's funds. EACH BOARD [They] shall, as often as necessary, elect a president of the institution under ITS [their respective] supervision. [who] HE shall be the principal executive officer of the institution, [and] be ex-officio a member of the board [but] without the right to vote[,] and preside at meetings of the board. The board[s] of each institution shall consist of [8] EIGHT members who shall hold office for TERMS OF [8] EIGHT years and who shall be elected [according to] AS PROVIDED BY law. The governor shall fill board

vacancies by appointment. Each appointee shall hold office until a successor has been nominated and elected as [prescribed] PROVIDED by law.

Sec. 6. Other institutions of higher education established by law having authority to grant baccalaureate degrees shall each be governed by a board of control which shall be a body corporate. The board shall have general supervision of the institution and the control and direction of all expenditures from the institution's funds. [and] IT shall, as often as necessary, elect a president of the institution under its supervision. [who] HE shall be the principal executive officer of the institution and be ex-officio a member of the board [but] without the right to vote. The board may elect one of ITS MEMBERS [their number], or may designate the president, to preside at board meetings. Each board of control shall consist of [8] EIGHT members who shall hold office for TERMS OF [8] EIGHT years, NOT MORE THAN TWO OF WHICH SHALL EXPIRE IN THE SAME YEAR, and WHO SHALL be appointed by the governor BY AND WITH THE ADVICE AND CONSENT OF THE SENATE, [in the same manner as executive appointments are provided in this constitution.] Vacancies shall be filled in like manner.

Sec. 7. The legislature shall provide by law for the establishment and financial support of public community and junior colleges[,] which shall be supervised and controlled by locally elected boards. The legislature shall provide by law for a state board for public community and junior colleges[,] which shall advise the state board of education concerning general supervision and planning for such colleges and requests for annual appropriations for their support. The board shall consist of [8] EIGHT members who shall hold office for TERMS OF [8] EIGHT years, NOT MORE THAN TWO OF WHICH SHALL EXPIRE IN THE SAME YEAR, and WHO SHALL be appointed by the state board of education. Vacancies shall be filled in like manner. The superintendent of public instruction shall be ex-officio a member of this board without the right to vote.

Sec. 8. Institutions, programs, and services for the care, treatment, education or rehabilitation of those inhabitants who are physically, mentally, or otherwise seriously handicapped shall always be fostered and supported.

Sec. 9. The legislature shall provide by law for the establishment and support of public libraries which shall be available to all residents of the state under regulations adopted by the governing bodies thereof. All fines assessed and collected in the several counties, cities[,] and townships for any breach of the penal laws shall be exclusively applied to the support of such public libraries, and county law libraries as provided by law.

# ARTICLE IX FINANCE & TAXATION

Sec.	Com. Proposal
1. Tax for State Expenses .....	50a
2. No Surrender of Tax Power .....	54a
3. Uniform Rule of Taxation .....	51a
4. Non Profit Corporation .....	51a
5. Assessment, rate of .....	52a
6. Limits on Ad Valorem Taxes .....	56a
7. No graduated tax .....	51a
8. Sales Tax limit .....	39a
9. Gasoline and Motor Vehicle Taxes, Use, Exceptions .....	38a
10. Sales Taxes, Distribution of .....	39a
11. School Aid Fund .....	39b
12. Evidence of Indebtedness .....	23a
13. Public Bodies, Borrowing of .....	49a
14. State Pledge Full Faith and Credit .	23b
15. Additional Borrowing .....	23b
16. School Bonds .....	23d
17. Payments from Treasury .....	37b
18. Prohibition on Credit to Private Concerns .....	23c
19. Stock, Interest of State in .....	37d
20. State Depositories .....	37a
21. Annual Accounting of Public Moneys	37c, 78a
22. Adjustment of Claims .....	74a
23. Financial Records; open and public .	37c-1
24. Pensions, State Obligations .....	40a

## Article IX

### Finance and Taxation

Sec. 1. The legislature shall impose taxes sufficient with other resources to pay the expenses of state government.

Sec. 2. The power of taxation shall never be surrendered, suspended[,] or contracted away.

Sec. 3. The legislature shall provide for the uniform general ad valorem taxation of real and tangible personal property not exempt by law. The legislature shall provide for the determination of true cash value of such property; the proportion of true cash value at which such property shall be uniformly assessed, which shall not, after January 1, 1966, exceed 50 percent; and for a system of equalization of assessments. The legislature may provide for alternative means of taxation of designated real and tangible personal property in lieu of general ad valorem taxation. Every tax other than the general ad valorem property tax shall be uniform upon the class or classes on which it operates.

Sec. 4. Property held by a non-profit corporation, association, or legal entity and used and occupied exclusively for religious, educational, charitable or burial grounds purposes, as defined by law, shall be exempt from real and personal property taxes.

Sec. 5. The legislature shall provide for the assessment by the state of the property of those PUBLIC SERVICE businesses [whose property is now] assessed by the state AT THE DATE THIS CONSTITUTION BECOMES EFFECTIVE, and of other property as designated by the legislature, and for the [levy] IMPOSITION and collection of taxes thereon. Property assessed by the state shall be assessed at the same proportion of its true cash value as the legislature shall specify for property subject to general ad valorem taxation. The rate of taxation on such property shall be the average rate levied upon other property in this state under the general ad valorem tax law, or, if the legislature provides, the rate of tax applicable to the property of each business enterprise assessed by the state shall be the average rate of ad valorem taxation levied upon other property in all counties in which any of such property is situated.

Sec. 6. Except as otherwise provided in this constitution, the total amount of general ad valorem taxes [levied against] IMPOSED UPON REAL AND TANGIBLE PERSONAL property for all purposes in any one year shall not exceed 15 mills on each dollar of the assessed valuation of [said] property as finally equalized. Under procedures provided by law, which shall guarantee the right of initiative, separate tax limitations for any county and FOR the townships and FOR school districts therein, the aggregate of which shall not exceed 18 mills on each dollar of such valuation, may be adopted and thereafter altered by the vote of a majority of the qualified electors of such county voting thereon, in lieu of the limitation hereinbefore established. The limitations established [herein] BY THIS CONSTITUTION or by county vote may be increased to an aggregate of not to exceed 50 mills, OR MORE IF PROVIDED BY LAW, on each dollar of [such] valuation, [except as otherwise provided by law,] for a period of not to exceed 20 years at any one time, [by the vote of] IF APPROVED BY a majority of the [qualified] electors, QUALIFIED UNDER [as defined in] Article II, [hereof] SECTION 6 OF THIS CONSTITUTION[,] VOTING ON THE QUESTION [of any such taxing authority voting thereon].

The foregoing limitations shall not apply to [(a)] taxes [levied] IMPOSED for the payment of principal and interest on bonds or other evidences of indebtedness[,] or for the payment of assessments or contract obligations in anticipation of which bonds are issued, which taxes may be [levied] IMPOSED without limitation as to rate or amount[,] or [(b)] TO taxes [levied] IMPOSED for any other purpose by any city, village, charter county, charter township or other charter authority the tax limitations of which are provided by charter or by general law.

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



In any school district which extends into [2] TWO or more counties, [there may be levied and collected for school purposes throughout the district] property taxes at the highest rate available in the county which contains the greatest part of the area of the district MAY BE IMPOSED AND COLLECTED FOR SCHOOL PURPOSES THROUGHOUT THE DISTRICT.

Sec. 7. No income tax graduated as to rate or base shall be imposed by the state or any of its subdivisions.

Sec. 8. [At no time shall] The legislature SHALL NOT [levy] IMPOSE a sales tax on retailers at a rate of more than [4] FOUR percent of their gross taxable sales of tangible personal property.

Sec. 9. All specific taxes, except general sales and use taxes and regulatory fees, imposed DIRECTLY OR INDIRECTLY on fuels sold or used to propel motor vehicles upon highways and on registered motor vehicles shall, after the payment of [the] necessary collection expenses, be used exclusively for highway purposes as defined by law.

Sec. 10. One-eighth of all taxes [upon the privilege of selling] IMPOSED ON RETAILERS ON TAXABLE SALES AT RETAIL OF tangible personal property [at retail] shall be used exclusively for assistance to cities, villages and townships, on a population basis as provided by law. IN DETERMINING POPULATION the legislature may exclude [from population] any portion of the total number of persons who are wards, patients or convicts [of] IN any tax supported institution.

Sec. 11. There shall be established a state school aid fund. The legislature may [from time to time] dedicate [certain] tax revenues to this fund which shall be used exclusively for the support of public education and [for] school employees' retirement systems, [in a manner] AS provided by law.

Sec. 12. No evidence of state indebtedness shall be issued except for debts authorized pursuant to this constitution.

Sec. 13. Public bodies corporate shall have power to borrow money and to issue their securities evidencing debt, subject to this constitution and law.

Sec. 14. To meet obligations incurred pursuant to appropriations for any fiscal year, the legislature may by law authorize the state to issue its full faith and credit notes in which case it shall pledge undedicated revenues to be received within the same fiscal year for the repayment thereof. Such indebtedness in any fiscal year shall not exceed 15 percent of undedicated revenues received by the state during the preceding fiscal year and such debts shall be repaid at the time the revenues so pledged are received, but not later than the end of the same fiscal year.

Sec. 15. The state may borrow money for specific purposes in amounts as may be provided by acts of the legislature adopted by a vote of [2/3] TWO-THIRDS of the members elected to and serving in each house, and approved by a majority of the electors voting thereon at any general election. The question submitted to the electors shall state the amount to be borrowed, the specific purpose to which the funds shall be devoted, and the method of repayment.

Sec. 16. The state, in addition to any other borrowing power, may borrow from time to time such amounts as shall be required, pledge its faith and credit and issue its notes or bonds therefor, for the purpose of making loans to school districts as provided in this section.

If the minimum amount which [it] would otherwise be necessary for a school district to levy in any year to pay principal and interest on its qualified bonds, including any necessary allowances for estimated tax delinquencies, exceeds 13 mills on each dollar of its assessed valuation as [last] FINALLY equalized [by the state], or such lower millage as the legislature may prescribe, then the school district may elect to borrow all or any part of the excess from the state. In that event the state shall LEND [loan] the excess amount to the school district for the payment of principal and interest. If for any reason any school district will be or is unable to pay the principal and interest on its qualified bonds when due, then the school district shall borrow and the state shall LEND [loan] to it an amount sufficient to enable the school district to make the payment.

The term "qualified bonds" means general obligation bonds of school districts issued for capital expenditures, including refunding bonds, issued prior to May 4, 1955, or issued thereafter and qualified as provided by law pursuant to Section 27 or Section 28, Article X, of the Constitution of 1908 or pursuant to this section.

After a school district has received loans from the state, each year thereafter it shall levy for debt service, exclusive of levies for nonqualified bonds, not less than 13 mills or such lower millage as the legislature may prescribe, until the amount loaned has been repaid, and any tax collections therefrom in any year over and above the minimum requirements for principal and interest on qualified bonds shall be used toward the repayment of state loans. In any year when such [a] levy would produce an amount in excess of the requirements and the amount due to the state, the levy may be reduced by the amount of the excess.

Subject to the foregoing provisions, the legislature shall have the power to prescribe and to limit the procedure, terms and conditions for the qualification of bonds, for obtaining and making state loans, and for the repayment of loans.

The power to tax for the payment of principal

and interest on bonds hereafter issued which are the general obligations of any school district, including refunding bonds, and for repayment of any state loans made to school districts, shall be without limitation as to rate or amount.

All rights acquired under Sections 27 and 28, Article X of the Constitution of 1908, by holders of bonds heretofore issued, and all obligations assumed by the state or any school district under these sections, shall remain unimpaired.

Sec. 17. No money shall be paid out of the state treasury except in pursuance of appropriations made by law.

Sec. 18. The credit of the state shall not be granted to, nor in aid of any person, association or corporation, public or private, except as authorized in this constitution.

This section shall not be construed to prohibit the investment of public funds until needed for current requirements [or the investment of public employee retirement system funds], as [may be] provided by law.

Sec. 19. The state shall not subscribe to, nor be interested in the stock of any company, association or corporation[,] . [except that] Funds accumulated to provide retirement or pension benefits for public officials and employees may be invested as provided by law[;] . [and except that] Endowment funds created for charitable or educational purposes may be invested as provided by law governing the investment of funds held in trust by trustees.

Sec. 20. No state money shall be deposited in banks other than those organized under the national or state banking laws. No state money shall be deposited in any bank in excess of 50 percent of the capital and surplus of such bank. Any bank receiving deposits of state money shall show the amount of state money so deposited as a separate item in all published statements.

Sec. 21. The legislature shall provide by law for the annual accounting for all public moneys, state and local, and may [also] provide by law for interim accounting.

The legislature shall provide by law for the maintenance of uniform accounting systems by units of local government and the auditing of county accounts by competent state authority and other units of government as provided by law.

Sec. 22. PROCEDURES FOR THE EXAMINATION AND ADJUSTMENT OF CLAIMS AGAINST THE STATE SHALL BE PRESCRIBED BY LAW.

Sec. 23. All financial records, accountings, audit reports and other reports of public moneys shall be public records and open to inspection. A statement of all revenues and expenditures of public moneys shall be published and distributed annually, as [prescribed] PROVIDED by law.

Sec. 24. 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.

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] USED for financing unfunded accrued liabilities.

## ARTICLE X PROPERTY

Sec.	Com. Proposal
1. Married Women .....	63a
2. Eminent Domain .....	67a
3. Homestead Exemption .....	12a
4. Escheats .....	74a
5. State Lands .....	129a
6. Alien Rights .....	43a

## Article X Property

Sec. 1. The real and personal estate of every woman, acquired before marriage, and all property to which she may afterwards become entitled by gift, grant, inheritance or devise, shall be and remain the estate and property of such woman, and shall not be liable for the debts, obligations or engagements of her husband, and may be devised or bequeathed by her as if she were unmarried.

Sec. 2. Private property shall not be taken for public use without just compensation therefor being first made or secured in a manner prescribed by law.

Sec. 3. A homestead in the amount of not less than \$3,500[.00] and personal property of every resident of this state in the amount of not less than \$750[.00], as defined by law, shall be exempt from forced sale on execution or other process of any court. Such exemptions shall not extend to any lien thereon excluded FROM EXEMPTION by law.

Sec. 4. Procedures [for the examination and adjustment of claims against the state and procedures] relating to escheats and to the custody and disposition of escheated property shall be prescribed by law.

Sec. 5. The legislature shall have general supervisory jurisdiction over all state owned lands useful for forest preserves, game areas and recreational purposes; shall require annual reports as to such lands from all departments having supervision or control thereof; and shall by general law provide for the sale, lease[,] or other disposition of such lands.

The legislature BY AN ACT ADOPTED [by a resolution concurred in] by TWO-THIRDS [2/3]

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

of the members elected to and serving in each house may [from time to time declare] DESIGNATE any part of such lands AS [to be] a state land reserve. [and may remove lands from such classification.] No lands in the state land reserve may be REMOVED FROM THE RESERVE, sold, leased or otherwise disposed of except by an act of the legislature.

Sec. 6. Aliens who are residents of this state shall enjoy the same rights and privileges in property as citizens of this state.

## ARTICLE XI PUBLIC OFFICERS AND EMPLOYMENT

Sec.	Com. Proposal
1. Oath of Office .....	25a
2. Terms of Office .....	61a
3. Extra Compensation .....	62a
4. Custodian of Funds, Accounting ....	55a
5. Classified Civil Service, creation ....	22a
6. Civil Service Commission .....	22a
7. Commission to make rules and fix compensation .....	22a
8. Increases in Compensation .....	22a
9. May abolish positions .....	22a
10. Commission to recommend increases to governor and legislature .....	22a
11. Commission to receive appropriations .....	22a
12. Violations of Civil Service Article ..	22a
13. Civil Service, Local Government, county .....	76a, 81m
14. Impeachment .....	42a, 42b, 42c, 42d
15. Removal of Elected Officers .....	42e

### Article XI

#### Public Officers and Employment

Sec. 1. [Members of the legislature and] All officers, LEGISLATIVE, executive and judicial, [shall,] before [they enter] ENTERING upon the duties of their respective offices, SHALL take and subscribe the following oath or affirmation: ["I do solemnly swear (or affirm) that I will support the Constitution of the United States and the constitution of this state, and that I will faithfully discharge the duties of the office of ..... according to the best of my ability."'] No other oath, affirmation, or any religious test shall be required as a qualification for any office or public trust.

Sec. 2. The terms of office of elective state officers, members of the legislature[,] and JUSTICES AND judges of courts of record shall begin at [12:00] TWELVE o'clock noon on the first day of January next succeeding their election, except as otherwise provided in this constitution. The terms of office of county officers shall begin on the first day of January next succeeding their election, except as otherwise provided

by law.

Sec. 3. Neither the legislature nor any political subdivision of this state shall grant or authorize extra compensation to any public officer, agent or contractor after the service has been rendered or the contract entered into.

Sec. 4. No person having custody or control of public moneys shall [have a seat in] BE A MEMBER OF the legislature, [n]or be eligible to any office of trust or profit under this state, until he shall have made an accounting, as provided by law, of all sums for which he may be liable.

Sec. 5. The classified state civil service shall consist of all positions in the state service except those filled by popular election, heads of principal departments, members of boards and commissions, the [chief] PRINCIPAL executive officer of boards and commissions heading principal departments, employees of courts of record, employees of the legislature, employees of the state institutions of higher education, all persons in the armed forces of the state, [8] EIGHT exempt positions in the office of the governor, and within each principal department, when requested by the department head, [2] TWO other exempt positions, one of which shall be policy-making. The civil service commission may exempt [3] THREE additional positions of a policy-making nature within each principal department.

Sec. 6. The civil service commission shall be non-salaried and shall consist of [4] FOUR persons, not more than [2] TWO of whom shall be members of the same political party, appointed by the governor for TERMS OF [8] EIGHT yearS, [overlapping terms.] NO TWO OF WHICH SHALL EXPIRE IN THE SAME YEAR.

The administration of the commission's powers shall be vested in a state personnel director who shall be a member of the classified service and who shall be responsible to and selected by the commission after open competitive examination.

Sec. 7. The commission shall classify all positions in the classified service according to their respective duties and responsibilities, fix rates of compensation for all classes of positions, approve or disapprove disbursements for all personal services, determine by competitive examination and performance exclusively on the basis of merit, efficiency and fitness the qualifications of all candidates for positions in the classified service, make rules and regulations covering all personnel transactions, and regulate all conditions of employment in the classified service.

No person shall be appointed to or promoted in the classified service who has not been certified BY THE COMMISSION as qualified for such appointment or promotion [by the commission]. No appointments, promotions, demotions or removals in the classified service shall be made for

partisan, racial or religious considerations.

Sec. 8. Increases in rates of compensation authorized by the commission may be effective only at the start of a fiscal year and shall require prior notice to the governor, who shall transmit such increases to the legislature as part of his budget. Within 60 calendar days following such transmission, the legislature may, by a [2/3] TWO-THIRDS vote of the members elected to and serving in each house, reject, reduce, or modify increases in rates of compensation authorized by the commission[:]. [Provided however,] The legislature may not reduce rates of compensation below those in effect at the time of the transmission of increases authorized by the commission. The legislature may, by a majority vote of the members elected to and serving in each house, waive the notice and permit increases in rates of compensation to be effective at a time other than the start of a fiscal year.

Sec. 9. The appointing authorities may create or abolish positions for reasons of administrative efficiency without the approval of the commission. Positions shall not be created nor abolished except for reasons of administrative efficiency. Any employee considering himself aggrieved by the abolition of a position shall have a right of appeal to the commission through established grievance procedures.

Sec. 10. The civil service commission shall recommend to the governor and to the legislature rates of compensation for all appointed positions within the executive department not a part of the classified service.

Sec. 11. To enable the commission to exercise its powers, the legislature shall appropriate to the commission for the ensuing fiscal year a sum not less than one percent of the aggregate payroll of the classified service for the preceding fiscal year, as certified by the commission. Within [6] SIX months after the conclusion of each fiscal year the commission shall return to the state treasury all [funds] MONEYS unexpended for that fiscal year.

The commission shall furnish reports of expenditures, at least annually, to the governor and the legislature and shall be subject to annual audit as provided by law.

Sec. 12. No payment for personal services shall be made or authorized until the provisions of this [article] CONSTITUTION PERTAINING TO CIVIL SERVICE have been complied with in every particular. Violation of any of the provisions hereof may be restrained or observance compelled by injunctive or mandamus proceedings brought by any citizen of the state.

Sec. 13. BY ORDINANCE OR RESOLUTION WHICH SHALL NOT TAKE EFFECT UNTIL APPROVED BY A MAJORITY OF THE ELECTORS VOTING THEREON, each city, village,

township, county, school district[,] and other governmental unit[s] or authorit[ies]Y [performing the same or similar functions] may[, by ordinance or resolution of the governing body which ordinance or resolution shall not take effect until approved by a majority of the electors voting thereon,] establish, modify or discontinue a merit system for its employees other than teachers under contract or tenure. The state civil service commission may on request furnish technical services [to them] TO ANY SUCH UNIT on a reimbursable basis.

[The board of supervisors of any county with a population of 1,000,000 or more shall have the power by ordinance to establish a merit system for county employment. The ordinance or any amendments thereto shall not take effect until approved by a majority of the electors voting thereon.]

Sec. 14. The house of representatives shall have the sole power of impeaching civil officers for corrupt conduct in office or for crimes or misdemeanors, but a majority of the members elected and serving shall be necessary to direct an impeachment.

When an impeachment is directed, the house of representatives shall elect [3] THREE of its members to prosecute the impeachment.

Every impeachment shall be tried by the senate immediately after the final adjournment of the legislature. The senators shall take an oath or affirmation truly and impartially to try and determine the impeachment according to the evidence. When the governor or lieutenant governor is tried, the chief justice of the supreme court shall preside.

No person shall be convicted without the concurrence of [2/3] TWO-THIRDS of the senators elected and serving. Judgment in case of conviction shall not extend further than removal from office, but the person convicted shall be liable to punishment according to law.

No judicial officer shall exercise ANY OF THE FUNCTIONS OF his office after an impeachment is directed until he is acquitted.

Sec. 15. Any elected officer of a political subdivision may be removed from office in the manner and for the causes [prescribed] PROVIDED by law.

## ARTICLE XII AMENDMENT & REVISION

Sec.	Com. Proposal
1. By Legislature .....	64a
2. By Petition of Electors .....	65a
3. Constitutional Convention .....	66a

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

## Article XII

## Amendment &amp; Revision

Sec. 1. Amendments to this constitution may be proposed in the senate or house of representatives. Proposed amendments agreed to by [2/3] TWO-THIRDS of the members elected to and serving in each house on a [yea and nay] vote WITH THE NAMES AND VOTE OF THOSE VOTING entered in the respective journals shall be submitted, not less than 60 days thereafter, to the electors at the next general election or special election as the legislature shall direct. If a majority of electors voting on [such] a proposed amendment approve [such amendment,] THE SAME, it shall become part of the constitution and shall abrogate or amend existing provisions of the constitution at the end of 45 days after the date of the election at which it was approved.

Sec. 2. Amendments may be proposed to this constitution by petition of the registered electors of this state. Every petition shall include the full text of the proposed amendment, and be signed by registered electors of the state equal in number to at least 10 percent of the total vote cast for all candidates for governor at the last preceding general election at which a governor was elected, or 300,000 registered electors, whichever is less. Such petitions shall be filed with the person authorized by law to receive the same at least 120 days before the election at which the proposed amendment is to be voted upon. Any such petition shall be in the form, and shall be signed and circulated in such manner, as prescribed by law. The person authorized by law to receive such petition[,] shall[,] upon its receipt[,] determine, as provided by law, the validity and sufficiency of the signatures on the petition, and make an official announcement thereof at least 60 days prior to the election at which the proposed amendment is to be voted upon.

Any amendment proposed by such petition shall be submitted, not less than 120 days after it was filed, to the electors at the next GENERAL election. [at which any state officer is to be elected.] Such proposed amendment, existing provisions of the constitution which would be altered or abrogated thereby, and the question as it shall appear on the ballot [used in such election] shall be published in full as provided by law. Copies of such publication shall be posted in each polling place and furnished to news media as provided by law.

The ballot to be used in such election shall contain a statement of the purpose of the proposed amendment, expressed in not more than 100 words, exclusive of caption. Such statement of purpose and caption shall be prepared by the person authorized by law, and shall consist of a true and impartial statement of the purpose of the amendment in such language as shall create no prejudice

for or against the proposed amendment.

If the proposed amendment is approved by a majority of the electors voting on the question, the proposed amendment shall become part of the constitution, and shall abrogate or amend existing provisions of the constitution at the end of 45 days after the date of the election at which it was approved. IF TWO OR MORE AMENDMENTS APPROVED BY THE ELECTORS AT THE SAME ELECTION CONFLICT, THAT AMENDMENT RECEIVING THE HIGHEST AFFIRMATIVE VOTE SHALL PREVAIL.

Sec. 3. At the general election to be held in the year 1978, and in each 16th year thereafter and at such times as may be provided by law, the question of a general revision of the constitution shall be submitted to the electors of the state. If a majority of the electors voting on the question decide in favor of a convention for such purpose, at an election to be held not later than [4] FOUR months after the proposal was certified as approved, the electors of each [house of] representative[s] district as then organized shall elect one delegate and the electors of each senatorial district as then organized shall elect one delegate. The delegates so elected shall convene at the SEAT OF GOVERNMENT [capital city] on the first Tuesday in October next succeeding such election or at an earlier date if provided by law.

The convention shall choose its own officers, determine the rules of its proceedings and judge the qualifications, elections and returns of its members. The governor shall appoint a qualified resident of the same district to fill a vacancy in the office of any delegate. [If the legislature shall determine that delegates shall be elected on a partisan basis, the governor shall appoint a qualified resident of the same district and of the same party.] WHO SHALL BE A MEMBER OF THE SAME PARTY AS THE DELEGATE VACATING THE OFFICE IF THE LEGISLATURE PROVIDES FOR PARTISAN ELECTION OF DELEGATES. The convention shall have power to appoint such officers, employees and assistants as it deems necessary and to fix their compensation; to provide for the printing and distribution of its documents, journals and proceedings; to explain and disseminate information about the proposed constitution and to complete the business of the convention in an orderly manner. Each delegate shall receive for his services compensation provided by law.

No proposed constitution or amendment adopted by such convention shall be submitted to the electors for approval as hereinafter provided unless by the assent of a majority of all the delegates elected to and serving in the convention, WITH THE NAMES AND VOTE OF THOSE VOTING [the yeas and nays being] entered in the journal. Any proposed constitution or amendments adopted

by such convention shall be submitted to the qualified electors in the manner and at the time provided by such convention not less than 90 days after final adjournment of the convention. Upon the approval of such constitution or amendments by a majority of the qualified electors voting thereon the constitution or amendments shall take effect as provided by the convention.

## SCHEDULE AND TEMPORARY PROVISIONS

Sec.	Com. Proposal
1. Attorney general to recommend necessary laws	44d
2. Writs, actions, claims, etc. remain effective	44b
3. Officers continue their duties	44c and 71g
4. Terms of officers elected November, 1962	68b
5. Terms of governor, etc. elected 1964. When 4 year terms begin	80 and 71a
6. Senate Apportionment	80
7. Supreme Court, reduction to seven justices	91a
8. Judges of Probate, eligible for re-election	96f
9. Overlapping terms for judiciary	96j
10. State Board of Education	47a
11. Boards of Control	98c
12. Educational Boards	
13. Initial allocation	71b
14. Contractual obligations remain in force	6a
15. Mackinac Bridge refunding	23b
16. Constitution submitted to people, when	68a
17. Constitution submitted to people, manner	68c

TO INSURE THE ORDERLY TRANSITION FROM THE CONSTITUTION OF 1908 TO THIS CONSTITUTION THE FOLLOWING SCHEDULE IS SET FORTH TO BE EFFECTIVE FOR SUCH PERIOD AS ITS PROVISIONS REQUIRE.

Sec. 1. The attorney general [of the state] shall recommend to the legislature AS SOON AS PRACTICABLE [at the commencement of the next session] such changes AS MAY BE NECESSARY [in existing laws as may be deemed necessary] to adapt EXISTING LAWS [the same] to this constitution.

Sec. 2. All writs, actions, suits, proceedings, civil or criminal liabilities, prosecutions, judgments, sentences, orders, decrees, appeals, causes of action, contracts, claims, demands, titles and rights [of individuals, partnerships, bodies corporate, and of this state or any subdivision or agency thereof] existing on the effective date [hereof] OF THIS CONSTITUTION shall continue unaffected except as modified in accordance with the provisions of this constitution.

Sec. 3. Except as otherwise provided in this constitution, all officers filling any office by election or appointment shall continue to exercise THEIR POWERS AND [the] duties [thereof, according to their respective commissions or appointments,] until their offices shall have been abolished or their successors selected and qualified in accordance with this constitution or the laws enacted pursuant thereto.

No provision of this constitution, or of law or of executive order authorized by this constitution shall shorten the term of any person elected to state office at a statewide election ON [in] or prior to THE DATE ON WHICH THIS CONSTITUTION IS SUBMITTED TO A VOTE. [November, 1962.] In the event the duties of any [of] such officers shall not have been ABOLISHED OR incorporated into one or more of the principal departments at the expiration of his term, such officer shall continue to serve until his duties are so incorporated OR ABOLISHED.

Sec. 4. All officers elected [on the Tuesday after the first Monday of November, 1962] AT THE SAME ELECTION THAT THIS CONSTITUTION IS SUBMITTED TO THE PEOPLE FOR ADOPTION [under the 1908 Constitution as amended and existing laws] shall take office [on and after the first day of January, 1963,] and complete the term to which they were elected UNDER THE 1908 CONSTITUTION AND EXISTING LAWS AND CONTINUE TO SERVE UNTIL THEIR SUCCESSORS ARE ELECTED AND QUALIFIED PURSUANT TO THIS CONSTITUTION OR LAW.

Sec. 5. Notwithstanding any other provision in this constitution, the governor, THE lieutenant governor, THE secretary of state [and], THE attorney general, AND state senators shall be elected at the general election in 1964 to serve for [2] TWO year terms beginning on the first day of January next succeeding their election. The first [4 year] election OF SUCH OFFICERS FOR FOUR-YEAR TERMS under this constitution shall be held at the general election in 1966.

Sec. 6. The state shall be districted for the purpose of electing senators in accordance with the provisions of [Committee Proposal 80, section a,] ARTICLE IV, SECTION 2 after the official publication of the total population count of the 1970 decennial federal census. Until the [re]apportionment of the senate following the 1970 census, the senatorial districts under the 1908 constitution[, as amended,] shall remain intact except that upon the adoption of this constitution each of the counties of Kent, Genesee, Macomb and Oakland shall be divided by the apportionment commission into [2] TWO senatorial districts and Wayne county into [8] EIGHT senatorial districts in accordance with this constitution.



Sec. 7. [A vacancy hereafter created as the result of the death, retirement or resignation of one incumbent justice shall not be filled.]

NOTWITHSTANDING THE PROVISIONS OF THIS CONSTITUTION THAT THE SUPREME COURT SHALL CONSIST OF SEVEN JUSTICES IT SHALL CONSIST OF EIGHT JUSTICES UNTIL THE TIME THAT A VACANCY OCCURS AS A RESULT OF DEATH, RETIREMENT OR RESIGNATION OF A JUSTICE. THE FIRST SUCH VACANCY SHALL NOT BE FILLED.

Sec. 8. Any [supreme court justice, circuit judge,] judge of probate serving [at] ON the [time this constitution becomes] effective DATE OF THIS CONSTITUTION may serve the remainder of the term and be eligible TO SUCCEED HIMSELF for election [to his present office] regardless of other provisions in this constitution requiring him to be licensed to practice law in this state.

Sec. 9. The provisions of [this] Article VI providing that terms of JUDICIAL offices shall not all expire at the same time, shall be implemented BY LAW PROVIDING THAT at the next election for such offices [by legislation providing for elections] JUDGES SHALL BE ELECTED for terms of varying length, none of which shall be shorter than the [basic] REGULAR term provided for the office.

Sec. 10. THE MEMBERS OF THE STATE BOARD OF EDUCATION PROVIDED FOR IN ARTICLE VIII SECTION 3 SHALL FIRST BE ELECTED AT THE FIRST GENERAL ELECTION AFTER THE EFFECTIVE DATE OF THIS CONSTITUTION FOR THE FOLLOWING TERMS: TWO SHALL BE ELECTED FOR TWO YEARS, TWO FOR FOUR YEARS, TWO FOR SIX YEARS, AND TWO FOR EIGHT YEARS AS PRESCRIBED BY LAW.

THE STATE BOARD OF EDUCATION PROVIDED FOR IN THE CONSTITUTION OF 1908 IS ABOLISHED AT TWELVE O'CLOCK NOON JANUARY 1 OF THE YEAR FOLLOWING THE FIRST GENERAL ELECTION UNDER THIS CONSTITUTION AND THE TERMS OF MEMBERS THEREOF SHALL THEN EXPIRE.

Sec. 11. THE PROVISIONS OF THIS CONSTITUTION PROVIDING FOR MEMBERS OF BOARDS OF CONTROL OF INSTITUTIONS OF HIGHER EDUCATION AND THE STATE BOARD OF PUBLIC COMMUNITY AND JUNIOR COLLEGES SHALL BE IMPLEMENTED BY LAW. THE LAW MAY PROVIDE THAT THE TERM OF EACH MEMBER IN OFFICE ON THE DATE OF THE VOTE ON THIS CONSTITUTION MAY BE EXTENDED, AND MAY FURTHER PROVIDE THAT THE INITIAL TERMS OF OFFICE OF MEMBERS MAY BE LESS THAN EIGHT YEARS.

Sec. 12. THE PROVISIONS OF THIS CONSTITUTION INCREASING THE NUMBER OF MEMBERS OF THE BOARD OF TRUSTEES OF MICHIGAN STATE UNIVERSITY AND OF THE BOARD OF GOVERNORS OF WAYNE STATE UNIVERSITY TO EIGHT, AND OF THEIR TERMS OF OFFICE TO EIGHT YEARS, SHALL BE IMPLEMENTED BY LAW. THE LAW MAY PROVIDE THAT THE TERM OF EACH MEMBER IN OFFICE ON THE DATE OF THE VOTE ON THIS CONSTITUTION MAY BE EXTENDED ONE YEAR, AND MAY FURTHER PROVIDE THAT THE INITIAL TERMS OF OFFICE OF THE ADDITIONAL MEMBERS MAY BE LESS THAN EIGHT YEARS.

Sec. 13. The initial allocation of departments by law pursuant to Article V, Section 2 shall be completed within two years after the effective date of this constitution. If such allocation shall not have been completed within such period, the governor, within one year thereafter, by executive order, shall make the initial allocation.

Sec. 14. Contractual obligations of the state incurred pursuant to the constitution of 1908 [as amended] shall continue to be obligations of the state.

For the retirement of [such] notes and bonds [as may have been] issued under Section 26 of Article X of the 1908 constitution, there is hereby appropriated from the general fund each year during their life a sum equal to the amount of principal and interest payments due and payable in each [such] year.

Sec. 15. [Provided however, That] The legislature [is authorized to provide by general law adopted] by a vote of [2/3] TWO-THIRDS of the members elected to and serving in each house MAY PROVIDE THAT THE STATE MAY [for the] borrow[ing of] money AND MAY PLEDGE ITS FULL FAITH AND CREDIT for [the] refunding [of] any bonds issued by the Mackinac Bridge Authority[,] AND at [which] THE time OF REFUNDING the Mackinac Bridge Authority [Act] shall be [repealed] ABOLISHED and the operation of the bridge SHALL be assumed by the state highway department. THE LEGISLATURE MAY IMPLEMENT THIS SECTION BY LAW.

Sec. 16. This constitution shall be submitted to the people for their adoption or rejection at the general election to be held on the Tuesday after the first Monday of November, 1962. It shall be the duty of the secretary of state forthwith to give notice of such submission to all other officers required to give or publish any notice in regard to A GENERAL [such] election. He shall give notice that this constitution will be duly submitted to the electors at such election. The notice shall be given in the manner required for the election of governor.

Sec. 17. Every registered elector may vote

1 on the adoption of the constitution. The board  
 2 of election commissioners in each county shall  
 3 cause to be printed on a ballot separate from  
 4 the ballot containing the names of the nominees  
 5 for office, the words: ["] Shall the revised con-  
 6 stitution be adopted? ( ) Yes. ( ) No. ["] All  
 7 votes cast at THE [this] election shall be taken,  
 8 counted, canvassed and returned as provided by

law for the election of state officers. [Should]  
 IF the revised constitution so submitted receiveS  
 more votes in its favor than were cast against  
 it, it shall be the supreme law of the state on  
 and after the first day of January OF THE YEAR  
 FOLLOWING ITS ADOPTION [,1963, except as  
 otherwise provided in this constitution].

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

Proposal 36, which on April 19, as shown on page 1052 of the journal, was stricken and defeated by a vote of 71 to 46. For that reason I do not believe the amendment is now in order. I recognize that there is a slight difference in the wording but I don't think there is any difference in the substance and I think that under the rules there is no question but what this is out of order.

MR. AUSTIN: Mr. President, may I speak to the point of order?

VICE PRESIDENT HUTCHINSON: You may speak to the point, Mr. Austin.

MR. AUSTIN: At the time the committee proposal was presented to the floor, we had abolished the state aid fund, the school aid fund, as it was called at that time, and we have now, under the amendment which was adopted on the floor, provided for a school aid fund to which certain taxes are to be contributed and to which the legislature may contribute other dedicated revenues through legislation. This merely provides that this is another source of revenue to be contributed to that particular fund. I submit that this is a different proposition.

MR. VAN DUSEN: Mr. President, Mr. Austin is in error when he says that we had at that point abolished the school aid fund. On page 1046 of the journal, we adopted Committee Proposal 39, which said, "There shall be established a state school aid fund" — adopted a substitute for it which made that provision.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen, will you cite again your reference with regard to what was before the body before? Page what?

MR. VAN DUSEN: Page 1052, Mr. President, of the journal, April 19, Committee Proposal 36. An amendment was offered by Mr. Brake, on behalf of the committee on finance and taxation, to strike out the entire proposal, which was substantially the same as the language now offered by Mr. Austin, and that amendment carried 71 to 46. So that Mr. Austin now proposes to insert in the constitution that which was stricken on second reading.

VICE PRESIDENT HUTCHINSON: Mr. Austin, will you accept the point of order?

MR. AUSTIN: Yes.

VICE PRESIDENT HUTCHINSON: All right. Mr. Austin accepts the point of order and withdraws his amendment. The secretary will read the next amendment.

SECRETARY CHASE: I have no other ones.

VICE PRESIDENT HUTCHINSON: No other amendments? The question is upon the passage of article IX, as amended.

MR. VAN DUSEN: Mr. President, if there are no further amendments, I would like to move to limit further debate on this article to 5 minutes.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen moves to limit debate upon the article to 5 minutes. All those in favor will say aye. Opposed, no.

The motion prevails. Debate is so limited. Mr. Austin.

MR. AUSTIN: Mr. President, this may be unfair because I have a 5 minute speech here.

VICE PRESIDENT HUTCHINSON: You are recognized, Mr. Austin.

MR. AUSTIN: Mr. President and fellow delegates, the committee on finance and taxation worked very hard to develop what is now article IX. There have been many developments on which there is substantial bipartisan support: I would like to call attention to the removal of the prohibition to taxation by reference to other legislation which permits the freedom to piggyback to other forms of taxation. There has been some relaxation of the 15 mill limitation. We have raised the debt limit. We have provided for refunding of the Mackinac bridge bond issue. We have provided for pensions, recognized the obligation to fund these pension funds properly for public employees. We have also relaxed the restrictions on the investment of pension and trust funds. We have updated the language and the style of the section and we have even done something for nonprofit corporations in providing exemptions for them.

Much of this good work has been offset by what I consider to be some blinders that we put on in regard to giving the legislature more freedom in the area of taxing power. We have placed a restriction on assessment of tangible property to 50 per cent of

the cash value of that property. I don't believe there is any need at this time to elaborate on the great harm that this 50 per cent of cash value standard does to many areas of our state. We have retained the uniformity clause for assessment of property, not giving the local units of government or the legislature the right to classify any of the property. We have provided a prohibition to a graduated income tax which, in the long run, may do great harm in restricting the legislature in its ability to raise sufficient revenues from any income tax levy, should it ever desire to impose such a levy. We have removed a good deal of the earmarking of taxes for schools. Just a few moments ago we restored the earmarking of  $\frac{1}{2}$  of the sales tax for schools but we have not restored the earmarking of the taxes now contributing to the primary school interest fund.

Throughout the deliberations, the committee has not responded to the pleas of those of us from the more populous areas, our pleas for more freedom to levy taxes because so much of the property is now being pulled off the tax rolls and because of the general inadequacy of the property tax as a major source of revenue at the local level. There is a need for more revenue and there is more need for flexibility in levying property taxes.

I think one of the most unfortunate situations that has developed here at the convention is that a good deal of the decisions in regard to some of these major issues in regard to taxation were not deliberated in the committee on finance and taxation. Decisions were made off the floor in connection with a proposition which has been mentioned very often here on the floor. I think that we would have had a happier situation had the leadership, the minority leadership, been consulted on some of these major changes. I was informed today that the minority leadership has been consulted on only one issue before this convention since February, and that was on the parimutuel issue.

I submit that there are a good number of other issues particularly the issues of taxation —

VICE PRESIDENT HUTCHINSON: Time.

MR. AUSTIN: Thank you. I urge the defeat of this article.

VICE PRESIDENT HUTCHINSON: The question is upon the passage of article IX, finance and taxation, as amended. Time for debate upon it has expired. All those in favor of the passage of article IX — for what purpose, Mr. Wanger?

MR. WANGER: How many other speakers were there seeking recognition?

VICE PRESIDENT HUTCHINSON: There wasn't anyone.

MR. WANGER: I see. Mr. President, I wish to announce my intention to abstain for the purpose of forcing a reconsideration of the Bentley amendment. I urge others to do likewise.

VICE PRESIDENT HUTCHINSON: Mr. Wanger abstains. The question is upon the passage of article IX, finance and taxation, as amended. All those in favor of the adoption of article IX will vote aye. Those opposed will vote no. 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—90

Andrus, Miss	Haskill	Powell
Anspach	Hatch	Prettie
Batchelor	Heideman	Radka
Beaman	Higgs	Rajkovich
Bentley	Howes	Richards, J. B.
Boothby	Hoxie	Richards, L. W.
Brake	Hutchinson	Romney
Brown, G. E.	Iverson	Rood
Butler, Mrs.	Judd, Mrs.	Seyferth
Conklin, Mrs.	Karn	Shaffer
Cudlip	Kelsey	Shanahan
Danhof	Kirk, S.	Sharpe
Dehnke	Knirk, B.	Sleder
Dell	Koeze, Mrs.	Spitler
Donnelly, Miss	Krolikowski	Stafseth
Doty, Dean	Kuhn	Stalger
Doty, Donald	Lawrence	Stamm
Elliott, A. G.	Leibrand	Sterrett
Erickson	Leppien	Stevens
Everett	Mahinske	Suzone
Farnsworth	Martin	Thomson

Figy	McAllister	Tubbs
Finch	McCauley	Turner
Gadola	McGowan, Miss	Tweedie
Goebel	Millard	Van Dusen
Gover	Mosler	White
Gust	Page	Wilkowski
Habermehl	Perras	Wood
Hanna, W. F.	Plank	Woolfenden
Hannah, J. A.	Pollock	Yeager

## Nays—36

Allen	Downs	Nord
Austin	Elliott, Mrs. Daisy	Norris
Baginski	Faxon	Ostrow
Balcer	Follo	Pellow
Binkowski	Ford	Perlich
Bledsoe	Hart, Miss	Sablich
Bradley	Hatcher, Mrs.	Snyder
Brown, T.S.	Hodges	Stopczynski
Buback	Jones	Upton
Cushman, Mrs.	Lesinski	Walker
Dade	Madar	Young
Douglas	Marshall	Youngblood

SECRETARY CHASE: On the passage of article IX, as amended, the yeas are 90; the nays are 36.

VICE PRESIDENT HUTCHINSON: A majority of the delegates elect having voted in favor thereof, **article IX**, as amended, is passed.

*For sections 1, 2, 3, 5, 7, 8, 9, 10, 12 through 17 and 20 through 24 of article IX as passed, see above, page 3067.*

*Following is section 4 of article IX as amended and passed:*

Sec. 4. Property owned and occupied by a non-profit religious or educational organization and used exclusively for religious or educational purposes, as defined by law, shall be exempt from real and personal property taxes.

*Following is section 6 of article IX as amended and passed:*

Sec. 6. Except as otherwise provided in this constitution, the total amount of general ad valorem taxes imposed upon real and tangible personal property for all purposes in any one year shall not exceed 15 mills on each dollar of the assessed valuation of property as finally equalized. Under procedures provided by law, which shall guarantee the right of initiative, separate tax limitations for any county and for the townships and for school districts therein, the aggregate of which shall not exceed 18 mills on each dollar of such valuation, may be adopted and thereafter altered by the vote of a majority of the qualified electors of such county voting thereon, in lieu of the limitation hereinbefore established. The limitations established by this constitution or by county vote may be increased to an aggregate of not to exceed 50 mills on each dollar of valuation, for a period of not to exceed 20 years at any one time, if approved by a majority of the electors, qualified under Article II, Section 6 of this constitution voting on the question.

The foregoing limitations shall not apply to taxes imposed for the payment of principal and interest on bonds or other evidences of indebtedness or for the payment of assessments or contract obligations in anticipation of which bonds are issued, which taxes may be imposed without limitation as to rate or amount; or to taxes imposed for any other purpose by any city, village, charter county, charter township or charter or other authority the tax limitations of which are provided by charter or by general law.

In any school district which extends into two or more counties, property taxes at the highest rate available in the county which contains the greatest part of the area of the district may be imposed and collected for school purposes throughout the district.

*Following is section 11 of article IX as amended and passed:*

Sec. 11. There shall be established a state school aid fund. The legislature shall provide moneys for this fund, including one-half of all sales tax revenues on tangible personal property as part of the dedicated tax revenues,

which shall be used exclusively for the support of public education and school employees' retirement systems. Payments from this fund shall be made in full on a scheduled basis, as provided by law.

*Following is section 18 of article IX as amended and passed:*

Sec. 18. The credit of the state shall not be granted to, nor in aid of any person, association or corporation, public or private, except as authorized in this constitution.

This section shall not be construed to prohibit the investment of public funds until needed for current requirements or the investment of funds accumulated to provide retirement or pension benefits for public officials and employees, as provided by law.

*Following is section 19 of article IX as amended and passed:*

Sec. 19. The state shall not subscribe to, nor be interested in the stock of any company, association or corporation, except that funds accumulated to provide retirement or pension benefits for public officials and employees may be invested as provided by law; and endowment funds created for charitable or educational purposes may be invested as provided by law governing the investment of funds held in trust by trustees.

*Following is explanation of vote submitted by Mr. Upton:*

I voted no on article IX — the finance and taxation article in the firm belief that the action taken by the convention in reinserting earmarking of sales tax funds for public education was not for the best interest of our state and public education. Michigan constitutionally earmarks over 60 per cent of its revenues — more than any other state and a definite impediment to overall tax reform. This action by the convention removes at least \$200 million from the general fund — money which is lost to control by the legislature and also to the attention of all citizens of Michigan. The legislature has proven that it can appropriate money from the general fund for the support of public education. In my estimation, public education could receive more attention and understanding from a legislature not handicapped by earmarking. We have not asserted the leadership in this vexing problem as the citizens of Michigan could and should expect of their constitutional convention delegates.

*Following is explanation of vote submitted by Messrs. Austin, Bradley, Follo, Ford, Sablich, Norris, Nord, Douglas, Bledsoe, Downs, Youngblood, Young, Madar, Stopczynski, Baginski, Binkowski, Faxon, Walker, Jones, Mrs. Hatcher and Mrs. Daisy Elliott:*

We have been compelled to vote no on article IX because we believe the convention dissipated a grand opportunity to provide the framework for an improved tax structure and true fiscal reform for the state of Michigan.

Admittedly there are many of the changes in the article that are highly desirable and represent substantial improvement in the present document. Such changes include removal of the prohibition on taxation by reference to other legislation, relaxation of the so called 15 mill limitation, raising of the debt limit for borrowing for current purposes, refunding of the Mackinac bridge authority bond issue, recognition of the obligations in connection with pension requirements for public employees, relaxation of restrictions on investment of pension and other trust funds, and general updating of the language and style of the article in the present constitution.

Much of the good work of the convention has been offset by a refusal of the majority to recognize the need for relaxing restrictions on taxing powers of the legislature and local units of government. Indeed, some of the provisions written into the new document amount to further restriction of taxing powers.

There has been included a provision requiring that property be assessed for ad valorem taxation at 50 per cent of its value. The present constitution provides for assessment at 100 per cent cash value. Inclusion of the 50 per cent standard

is an unnecessary restriction on the legislature to set limits for such taxation and will do grievous harm to the cities, townships, counties and school districts in the more populous areas. The lost revenue may have to be secured by increases in taxes on homes.

The prohibition of a graduated income tax is also an unnecessary restriction on the power of the legislature to raise sufficient revenues to pay the cost of government. No delegate would advocate that the legislature levy an income tax in any form. This matter should be left entirely to the legislature. However, once the legislature has decided to embark on an income tax program it should have the freedom to levy the tax in any form it desires.

Earmarking of gas and weight taxes for highways has been continued intact. But a portion of the earmarking of taxes for schools has been removed, thereby reducing the minimum base of support for schools. This action on the part of the majority is indefensible.

Throughout its deliberations the convention has failed to respond to the pleas of delegates representing the more populous areas for relaxation of taxing powers at state and local levels. Additional revenues are needed because the present sources, particularly the property tax, have proved inadequate for present needs.

It is with deep regret that we feel compelled, therefore, to vote against the new article IX.

*Following is explanation of vote submitted by Mrs. Cushman:*

While there are a number of improvements in article IX, the complete article does not, in my opinion, form the basis for an adequate system of financing the state of Michigan.

I object especially to the continuation of earmarking a great share of the state's revenues, the rigidity of a 50 per cent assessment level restriction, the modified 15 mill limitation, and prohibition of a graduated rate income tax.

I am pleased with the continuation of protection for school bond issues, relaxation of the debt limit, and, in the local government article, the strengthened tax powers of cities.

On the whole, however, the weaknesses of article IX overbalance the strengths.

**VICE PRESIDENT HUTCHINSON** (continuing): The Chair recognizes Mr. McAllister.

**MR. McALLISTER:** Mr. President, I would like to make a few remarks. This morning when we gave credit and recognition to the staff, attention was directed primarily to the gallery rather than to the control tower. At this time, on my own behalf — and I am taking the liberty to do so on behalf of the other delegates — I would like to compliment the podium staff for their having so ably surrounded and kept Mr. Chase in good humor and for having worked so diligently around the clock to make a record of this convention and get the journal out on time. I understand that many of these people have worked as late as 3:00 or 4:00 o'clock in the morning on occasions and then have got back here at 8:30 or a quarter to 9:00. I believe we should give these folks a rising vote of thanks for their part in this convention.

[Whereupon, the delegates accorded the secretary's staff at the rostrum a standing ovation.]

**VICE PRESIDENT HUTCHINSON:** If it weren't for the secretary's staff, I am sure that this convention couldn't operate at all. Mr. Marshall.

**MR. MARSHALL:** Mr. President and fellow delegates, I think while we are commending all of the staff — and I am in complete accord with that — I think we ought to find out between now and Friday who did the least talking and I can assure you it will not be me, but we ought to find out who did the least talking in this convention and all of us give him a standing ovation on Friday. (laughter)

**VICE PRESIDENT HUTCHINSON:** Third reading. The secretary will read article XI.

**SECRETARY CHASE:** Article XI, public officers and employment.

[Article XI, sections 1 through 15, was read by the secretary. For text, see above, page 3070.]

**VICE PRESIDENT HUTCHINSON:** Article XI has been read a third time. The question being upon the passage of the article, the secretary will report the first amendment.

**SECRETARY CHASE:** Messrs. King, Martin, Durst and Wanger offer the following amendment:

1. Amend article XI, section 8 (column 1, line 7) after "budget," by striking out the balance of the section and inserting "The legislature is not required to appropriate additional funds to meet the cost of such increases if in its judgment they should be met by a reduction in force or other economies by the various state agencies."

**MR. VAN DUSEN:** Mr. President

**VICE PRESIDENT HUTCHINSON:** Mr. Van Dusen.

**MR. VAN DUSEN:** I move to limit debate on this amendment to 10 minutes.

**VICE PRESIDENT HUTCHINSON:** On the motion to limit debate upon this amendment to 10 minutes, those in favor will say aye. Opposed, no. That was kind of a weak support. All those in favor will say aye. The opposed will say no.

The motion prevails. Debate is so limited.

**MR. HATCH:** Mr. President.

**VICE PRESIDENT HUTCHINSON:** Mr. Hatch.

**MR. HATCH:** I rise to a point of order, Mr. President.

**VICE PRESIDENT HUTCHINSON:** State the point.

**MR. HATCH:** On April 25, in Journal 128 on page 1119, the convention, on second reading, adopted the amendment which presently appears in section 8. I call the Chair's attention to section 398, paragraph one, of Mason's rules which provide that, "An amendment, once adopted, may not thereafter be changed or modified, except by reconsideration of the vote by which it was adopted." I therefore make the point that this amendment does change and modify an amendment previously adopted and that the amendment is not in order.

**VICE PRESIDENT HUTCHINSON:** Do you wish to speak to the point, Mr. King?

**MR. KING:** Yes, I do. Mr. President and fellow delegates, it would seem as though we have extended the wisdom of Mr. Mason to the stretching point — to the breaking point perhaps. First of all I would point out — and I am sure that all of us are well aware of that fact — that this is a constitutional convention. The very reason for having 3 separate and distinct readings of these proposals is to provide an opportunity to go back and look over what we have done on prior readings, to view the whole constitution in its proper context, perhaps even to subject ourselves to public opinion and perhaps revise our thinking on certain subjects. Surely, if we should accept this as a controlling rule upon this body, it might well be a good idea to move to suspend third reading, for what point is there in third reading? It seems perfectly obvious to me that if the rule has any effect at all — and I seriously question whether it does; but if it has any effect at all, it certainly wouldn't carry over from one reading to another reading.

**VICE PRESIDENT HUTCHINSON:** Mr. Wanger, do you desire to speak on the point?

**MR. WANGER:** I do, Mr. President. I would like to first point out that nowhere in the section cited is the categorical statement that it applies to all readings, from one reading to the next. Secondly, I would like to point out that it has obviously been the custom of this convention, the usage of this convention, to disregard this section up until today when some delegates, because of personal motives in connection with amendments which they themselves originally sponsored, now desire to prevent the convention from having any opportunity to consider whether or not those amendments should be modified.

I suggest that under section 39 of Mason's Manual entitled, Precedents and Usages, the precedents which we have adopted in this regard and the usage of the convention in this regard clearly take precedence over any alleged effect that section 398 might have when raised at this very, very late date in the constitutional convention.

Paragraph 4, for example, of section 39 says, "A not inconsiderable part of parliamentary law is based upon the established

# PREAMBLE

We, the people of the State of Michigan, grateful to Almighty God for the blessings of freedom, and earnestly desiring to secure these blessings undiminished to ourselves and our posterity, do ordain and establish this constitution.

## Article I

### Declaration of Rights

Sec. 1. All political power is inherent in the people. Government is instituted for their equal benefit, security and protection.

Sec. 2. No person shall be denied the equal protection of the laws; nor shall any person be denied the enjoyment of his civil or political rights or be discriminated against in the exercise thereof because of religion, race, color or national origin. The legislature shall implement this section by appropriate legislation.

Sec. 3. The people have the right peaceably to assemble, to consult for the common good, to instruct their representatives and to petition the government for redress of grievances.

Sec. 4. Every person shall be at liberty to worship God according to the dictates of his own conscience. No person shall be compelled to attend, or, against his consent, to contribute to the erection or support of any place of religious worship, or to pay tithes, taxes or other rates for the support of any minister of the gospel or teacher of religion. No money shall be appropriated or drawn from the treasury for the benefit of any religious sect or society, theological or religious seminary; nor shall property belonging to the state be appropriated for any such purpose. The civil and political rights, privileges and capacities of no person shall be diminished or enlarged on account of his religious belief.

Sec. 5. Every person may freely speak, write, express and publish his views on all subjects, being responsible for the abuse of such right; and no law shall be enacted to restrain or abridge the liberty of speech or of the press.

Sec. 6. Every person has a right to keep and bear arms for the defense of himself and the state.

Sec. 7. The military shall in all cases and at all times be in strict subordination to the civil power.

Sec. 8. No soldier shall, in time of peace, be quartered in any house without the consent of the owner or occupant, nor in time of war, except in a manner prescribed by law.

Sec. 9. Neither slavery, nor involuntary servitude unless for the punishment of crime, shall ever be tolerated in this state.

Sec. 10. No bill of attainder, ex post facto law or law impairing the obligation of contract shall be enacted.

Sec. 11. The person, houses, papers and possessions of every person shall be secure from unreasonable searches and seizures. No warrant to search any place or to seize any person or things shall issue without describing them, nor without probable cause, supported by oath or affirmation. The provisions of this section shall not be construed to bar from evidence in any criminal proceeding any narcotic drug, firearm, bomb, explosive or any other dangerous weapon, seized by a peace officer outside the curtilage of any dwelling house in this state.

Sec. 12. The privilege of the writ of habeas corpus shall not be suspended unless in case of rebellion or invasion the public safety may require it.

Sec. 13. A suitor in any court of this state has the right to prosecute or defend his suit,



either in his own proper person or by an attorney.

Sec. 14. The right of trial by jury shall remain, but shall be waived in all civil cases unless demanded by one of the parties in the manner prescribed by law. In all civil cases tried by 12 jurors a verdict shall be received when 10 jurors agree.

Sec. 15. No person shall be subject for the same offense to be twice put in jeopardy. All persons shall, before conviction, be bailable by sufficient sureties, except for murder and treason when the proof is evident or the presumption great.

Sec. 16. Excessive bail shall not be required; excessive fines shall not be imposed; cruel or unusual punishment shall not be inflicted; nor shall witnesses be unreasonably detained.

Sec. 17. No person shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property, without due process of law. The right of all individuals, firms, corporations and voluntary associations to fair and just treatment in the course of legislative and executive investigations and hearings shall not be infringed.

Sec. 18. No person shall be rendered incompetent to be a witness on account of his opinions on matters of religious belief.

Sec. 19. In all prosecutions for libels the truth may be given in evidence to the jury; and, if it appears to the jury that the matter charged as libelous is true and was published with good motives and for justifiable ends, the accused shall be acquitted.

Sec. 20. In every criminal prosecution, the accused shall have the right to a speedy and public trial by an impartial jury, which may consist of less than 12 jurors in all courts not of record; to be informed of the nature of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; to have the assistance of counsel for his defense; to have an appeal as a matter of right; and in courts of record, when the trial court so orders, to have such reasonable assistance as may be necessary to perfect and prosecute an appeal.

Sec. 21. No person shall be imprisoned for debt arising out of or founded on contract, express or implied, except in cases of fraud or breach of trust.

Sec. 22. Treason against the state shall consist only in levying war against it or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless upon the testimony of two witnesses to the same overt act or on confession in open court.

Sec. 23. The enumeration in this constitution of certain rights shall not be construed to deny or disparage others retained by the people.

## Article II Elections

Sec. 1. Every citizen of the United States who has attained the age of 21 years, who has resided in this state six months, and who meets the requirements of local residence provided by law, shall be an elector and qualified to vote in any election except as otherwise provided in this constitution. The legislature shall define residence for voting purposes.

Sec. 2. The legislature may by law exclude persons from voting because of mental incompetence or commitment to a jail or penal institution.

Sec. 3. For purposes of voting in the election for president and vice-president of the United States only, the legislature may by law establish lesser residence requirements for citizens who have resided in this state for less than six months and may waive residence requirements for former citizens of this state who have removed herefrom. The legislature shall not permit voting by any person who meets the voting residence requirements of the state to which he has removed.

Sec. 4. The legislature shall enact laws to regulate the time, place and manner of all nominations and elections, except as otherwise provided in this constitution or in the constitution and laws of the United States. The legislature shall enact laws to preserve the purity of elections, to preserve the secrecy of the ballot, to guard against abuses of the elective franchise, and to provide for a system of voter registration and absentee voting. No law shall be enacted which permits a candidate in any partisan primary or partisan election to have a ballot designation except when required for identification of candidates for the same office who have the same or similar surnames.

Sec. 5. Except for special elections to fill vacancies, or as otherwise provided in this constitution, all elections for national, state, county and township offices shall be held on the first Tuesday after the first Monday in November in each even-numbered year or on such other date as members of the congress of the United States are regularly elected.

Sec. 6. Whenever any question is required to be submitted by a political subdivision to the electors which involves the increase of any ad valorem tax rate limitation for a period of more than five years, or the issue of bonds, only electors in, and who have property assessed for any ad valorem taxes in, any part of the district or territory to be affected by the result of such election or electors who are the lawful husbands or wives of such persons shall be entitled to vote thereon. All electors in the district or territory affected may vote on all other questions.

Sec. 7. A board of state canvassers of four

members shall be established by law. No candidate for an office to be canvassed nor any inspector of elections shall be eligible to serve as a member of a board of canvassers. A majority of any board of canvassers shall not be composed of members of the same political party.

Sec. 8. Laws shall be enacted to provide for the recall of all elective officers except judges of courts of record upon petition of electors equal in number to 25 percent of the number of persons voting in the last preceding election for the office of governor in the electoral district of the officer sought to be recalled. The sufficiency of any statement of reasons or grounds procedurally required shall be a political rather than a judicial question.

Sec. 9. The people reserve to themselves the power to propose laws and to enact and reject laws, called the initiative, and the power to approve or reject laws enacted by the legislature, called the referendum. The power of initiative extends only to laws which the legislature may enact under this constitution. The power of referendum does not extend to acts making appropriations for state institutions or to meet deficiencies in state funds and must be invoked in the manner prescribed by law within 90 days following the final adjournment of the legislative session at which the law was enacted. To invoke the initiative or referendum, petitions signed by a number of registered electors, not less than eight percent for initiative and five percent for referendum of the total vote cast for all candidates for governor at the last preceding general election at which a governor was elected shall be required.

No law as to which the power of referendum properly has been invoked shall be effective thereafter unless approved by a majority of the electors voting thereon at the next general election.

Any law proposed by initiative petition shall be either enacted or rejected by the legislature without change or amendment within 40 session days from the time such petition is received by the legislature. If any law proposed by such petition shall be enacted by the legislature it shall be subject to referendum, as hereinafter provided.

If the law so proposed is not enacted by the legislature within the 40 days, the state officer authorized by law shall submit such proposed law to the people for approval or rejection at the next general election. The legislature may reject any measure so proposed by initiative petition and propose a different measure upon the same subject by a yea and nay vote upon separate roll calls, and in such event both measures shall be submitted by such state officer to the electors for approval or rejection at the next general election.

Any law submitted to the people by either initiative or referendum petition and approved by

a majority of the votes cast thereon at any election shall take effect 10 days after the date of the official declaration of the vote. No law initiated or adopted by the people shall be subject to the veto power of the governor, and no law adopted by the people at the polls under the initiative provisions of this section shall be amended or repealed, except by a vote of the electors or three-fourths of the members elected to and serving in each house of the legislature. Laws approved by the people under the referendum provision of this section may be amended by the legislature at any subsequent session thereof. If two or more measures approved by the electors at the same election conflict, that receiving the highest affirmative vote shall prevail.

The legislature shall implement the provisions of this section.

### Article III

#### General Government

Sec. 1. The seat of government shall be at Lansing.

Sec. 2. The powers of government are divided into three branches: legislative, executive and judicial. No person exercising powers of one branch shall exercise powers properly belonging to another branch except as expressly provided in this constitution.

Sec. 3. There shall be a great seal of the State of Michigan and its use shall be provided by law.

Sec. 4. The militia shall be organized, equipped and disciplined as provided by law.

Sec. 5. Subject to provisions of general law, this state or any political subdivision, any governmental authority or any combination thereof may enter into agreements for the performance, financing or execution of their respective functions, with any one or more of the other states, the United States, the Dominion of Canada, or any political subdivision thereof unless otherwise provided in this constitution. Any other provision of this constitution notwithstanding, an officer or employee of the state or of any such unit of government or subdivision or agency thereof may serve on or with any governmental body established for the purposes set forth in this section and shall not be required to relinquish his office or employment by reason of such service. The legislature may impose such restrictions, limitations or conditions on such service as it may deem appropriate.

Sec. 6. The state shall not be a party to, nor be financially interested in, any work of internal improvement, nor engage in carrying on any such work, except for public internal improvements provided by law.

Sec. 7. The common law and the statute laws now in force, not repugnant to this consti-

tution, shall remain in force until they expire by their own limitations, or are changed, amended or repealed.

Sec. 8. Either house of the legislature or the governor may request the opinion of the supreme court on important questions of law upon solemn occasions as to the constitutionality of legislation after it has been enacted into law but before its effective date.

#### Article IV Legislative Branch

Sec. 1. The legislative power of the State of Michigan is vested in a senate and a house of representatives.

Sec. 2. The senate shall consist of 38 members to be elected from single member districts at the same election as the governor for four-year terms concurrent with the term of office of the governor.

In districting the state for the purpose of electing senators after the official publication of the total population count of each federal decennial census, each county shall be assigned an apportionment factor equal to the sum of its percentage of the state's population as shown by the last regular federal decennial census computed to the nearest one-one hundredth of one percent multiplied by four and its percentage of the state's land area computed to the nearest one-one hundredth of one percent.

In arranging the state into senatorial districts, the apportionment commission shall be governed by the following rules:

(1) Counties with 13 or more apportionment factors shall be entitled as a class to senators in the proportion that the total apportionment factors of such counties bear to the total apportionment factors of the state computed to the nearest whole number. After each such county has been allocated one senator, the remaining senators to which this class of counties is entitled shall be distributed among such counties by the method of equal proportions applied to the apportionment factors.

(2) Counties having less than 13 apportionment factors shall be entitled as a class to senators in the proportion that the total apportionment factors of such counties bear to the total apportionment factors of the state computed to the nearest whole number. Such counties shall thereafter be arranged into senatorial districts that are compact, convenient, and contiguous by land, as rectangular in shape as possible, and having as nearly as possible 13 apportionment factors, but in no event less than 10 or more than 16. Insofar as possible, existing senatorial districts at the time of reapportionment shall not be altered unless there is a failure to comply with the above standards.

(3) Counties entitled to two or more senate districts shall be divided into single member districts. The population of such districts shall be as nearly equal as possible but shall not be less than 75 percent nor more than 125 percent of a number determined by dividing the population of the county by the number of senators to which it is entitled. Each such district shall follow incorporated city or township boundary lines to the extent possible and shall be compact, contiguous, and as nearly uniform in shape as possible.

Sec. 3. The house of representatives shall consist of 110 members elected for two-year terms from single member districts apportioned on a basis of population as provided in this article. The districts shall consist of compact and convenient territory contiguous by land.

Each county which has a population of not less than seven-tenths of one percent of the population of the state shall constitute a separate representative area. Each county having less than seven-tenths of one percent of the population of the state shall be combined with another county or counties to form a representative area of not less than seven-tenths of one percent of the population of the state. Any county which is isolated under the initial allocation as provided in this section shall be joined with that contiguous representative area having the smallest percentage of the state's population. Each such representative area shall be entitled initially to one representative.

After the assignment of one representative to each of the representative areas, the remaining house seats shall be apportioned among the representative areas on the basis of population by the method of equal proportions.

Any county comprising a representative area entitled to two or more representatives shall be divided into single member representative districts as follows:

(1) The population of such districts shall be as nearly equal as possible but shall not be less than 75 percent nor more than 125 percent of a number determined by dividing the population of the representative area by the number of representatives to which it is entitled.

(2) Such single member districts shall follow city and township boundaries where applicable and shall be composed of compact and contiguous territory as nearly square in shape as possible.

Any representative area consisting of more than one county, entitled to more than one representative, shall be divided into single member districts as equal as possible in population adhering to county lines.

Sec. 4. In counties having more than one representative or senatorial district, the territory in the same county annexed to or merged with a city between apportionments shall become a part of a contiguous representative or senatorial dis-

1 | trict in the city with which it is combined, if  
2 | provided by ordinance of the city. The district  
3 | or districts with which the territory shall be  
4 | combined shall be determined by such ordinance  
5 | certified to the secretary of state. No such change  
6 | in the boundaries of a representative or senatorial  
7 | district shall have the effect of removing a legis-  
8 | lator from office during his term.

9 | Sec. 5. Island areas are considered to be con-  
10 | tiguous by land to the county of which they are  
11 | a part.

12 | Sec. 6. A commission on legislative apportion-  
13 | ment is hereby established consisting of eight  
14 | persons, four of whom shall be selected by the  
15 | state organizations of each of the two political  
16 | parties whose candidates for governor received  
17 | the highest vote at the last general election at  
18 | which a governor was elected preceding each ap-  
19 | portionment. If a candidate for governor of a third  
20 | political party has received at such election more  
21 | than 25 percent of such gubernatorial vote, the  
22 | commission shall consist of 12 members, four of  
23 | whom shall be selected by the state organization of  
24 | the third political party. One member of the com-  
25 | mission shall be selected by each political party or-  
26 | ganization from each of the following four regions:  
27 | (1) The upper peninsula; (2) The northern part of  
28 | the lower peninsula, north of a line drawn along  
29 | the northern boundaries of the counties of Bay,  
30 | Midland, Isabella, Mecosta, Newaygo and Oceana;  
31 | (3) Southwestern Michigan, those counties south  
32 | of region (2) and west of a line drawn along  
33 | the western boundaries of the counties of Bay,  
34 | Saginaw, Shiawassee, Ingham, Jackson and Hills-  
35 | dale; (4) Southeastern Michigan, the remaining  
36 | counties of the state.

37 | No officers or employees of the federal, state  
38 | or local governments, excepting notaries public  
39 | and members of the armed forces reserve, shall  
40 | be eligible for membership on the commission.  
41 | Members of the commission shall not be eligible  
42 | for election to the legislature until two years after  
43 | the apportionment in which they participated  
44 | becomes effective.

45 | The commission shall be appointed immediately  
46 | after the adoption of this constitution and when-  
47 | ever apportionment or districting of the legislature  
48 | is required by the provisions of this constitution.  
49 | Members of the commission shall hold office until  
50 | each apportionment or districting plan becomes  
51 | effective. Vacancies shall be filled in the same  
52 | manner as for original appointment.

53 | The secretary of state shall be secretary of  
54 | the commission without vote, and in that capacity  
55 | shall furnish, under the direction of the commis-  
56 | sion, all necessary technical services. The com-  
57 | mission shall elect its own chairman, shall make  
58 | its own rules of procedure, and shall receive com-  
59 | pensation provided by law. The legislature shall  
60 | appropriate funds to enable the commission to

carry out its activities.

1 | Within 30 days after the adoption of this con-  
2 | stitution, and after the official total population  
3 | count of each federal decennial census of the state  
4 | and its political subdivisions is available, the se-  
5 | cretary of state shall issue a call convening the  
6 | commission not less than 30 nor more than 45  
7 | days thereafter. The commission shall complete  
8 | its work within 180 days after all necessary census  
9 | information is available. The commission shall  
10 | proceed to district and apportion the senate and  
11 | house of representatives according to the provi-  
12 | sions of this constitution. All final decisions shall  
13 | require the concurrence of a majority of the mem-  
14 | bers of the commission. The commission shall hold  
15 | public hearings as may be provided by law.

16 | Each final apportionment and districting plan  
17 | shall be published as provided by law within 30  
18 | days from the date of its adoption and shall be-  
19 | come law 60 days after publication. The secre-  
20 | tary of state shall keep a public record of all the  
21 | proceedings of the commission and shall be re-  
22 | sponsible for the publication and distribution of  
23 | each plan.

24 | If a majority of the commission cannot agree  
25 | on a plan, each member of the commission, indi-  
26 | vidualy or jointly with other members, may sub-  
27 | mit a proposed plan to the supreme court. The  
28 | supreme court shall determine which plan com-  
29 | plies most accurately with the constitutional re-  
30 | quirements and shall direct that it be adopted  
31 | by the commission and published as provided  
32 | in this section.

33 | Upon the application of any elector filed not  
34 | later than 60 days after final publication of the  
35 | plan, the supreme court, in the exercise of origi-  
36 | nal jurisdiction, shall direct the secretary of  
37 | state or the apportionment commission to per-  
38 | form their duties, may review any final plan  
39 | adopted by the commission, and shall remand  
40 | such plan to the commission for further action  
41 | if it fails to comply with the requirements of  
42 | this constitution.

43 | Sec. 7. Each senator and representative  
44 | must be a citizen of the United States, at least  
45 | 21 years of age, and an elector of the district  
46 | he represents. The removal of his domicile from  
47 | the district shall be deemed a vacation of the  
48 | office. No person who has been convicted of sub-  
49 | version or who has within the preceding 20 years  
50 | been convicted of a felony involving a breach  
51 | of public trust shall be eligible for either house  
52 | of the legislature.

53 | Sec. 8. No person holding any office under the  
54 | United States or this state or a political subdivi-  
55 | sion thereof, except notaries public and officers  
56 | of the armed forces reserve, may be a member of  
57 | either house of the legislature.

58 | Sec. 9. No person elected to the legislature  
59 | shall receive any civil appointment within this  
60 |

1 state from the governor, except notaries public,  
2 from the legislature, or from any other state  
3 authority, during the term for which he is elected.

4 Sec. 10. No member of the legislature nor any  
5 state officer shall be interested directly or in-  
6 directly in any contract with the state or any  
7 political subdivision thereof which shall cause a  
8 substantial conflict of interest. The legislature  
9 shall further implement this provision by appro-  
10 priate legislation.

11 Sec. 11. Senators and representatives shall be  
12 privileged from civil arrest and civil process dur-  
13 ing sessions of the legislature and for five days  
14 next before the commencement and after the  
15 termination thereof. They shall not be ques-  
16 tioned in any other place for any speech in either  
17 house.

18 Sec. 12. The compensation and expense al-  
19 lowances of the members of the legislature shall  
20 be determined by law. Changes in compensation  
21 or expense allowances shall become effective only  
22 when legislators commence their terms of office  
23 after a general election.

24 Sec. 13. The legislature shall meet at the seat  
25 of government on the second Wednesday in Janu-  
26 ary of each year at twelve o'clock noon. Each  
27 regular session shall adjourn without day, on a  
28 day determined by concurrent resolution, at  
29 twelve o'clock noon. Any business, bill or joint  
30 resolution pending at the final adjournment of  
31 a regular session held in an odd numbered year  
32 shall carry over with the same status to the  
33 next regular session.

34 Sec. 14. A majority of the members elected  
35 to and serving in each house shall constitute a  
36 quorum to do business. A smaller number in  
37 each house may adjourn from day to day, and  
38 may compel the attendance of absent members in  
39 the manner and with penalties as each house may  
40 prescribe.

41 Sec. 15. There shall be a bi-partisan legisla-  
42 tive council consisting of legislators appointed in  
43 the manner prescribed by law. The legislature  
44 shall appropriate funds for the council's opera-  
45 tions and provide for its staff which shall main-  
46 tain bill drafting, research and other services  
47 for the members of the legislature. The council  
48 shall periodically examine and recommend to the  
49 legislature revision of the various laws of the  
50 state.

51 Sec. 16. Each house, except as otherwise pro-  
52 vided in this constitution, shall choose its own  
53 officers and determine the rules of its proceedings,  
54 but shall not adopt any rule that will prevent a  
55 majority of the members elected thereto and  
56 serving therein from discharging a committee  
57 from the further consideration of any measure.  
58 Each house shall be the sole judge of the quali-  
59 fications, elections and returns of its members,  
60 and may, with the concurrence of two-thirds of

1 all the members elected thereto and serving  
2 therein, expel a member. The reasons for such  
3 expulsion shall be entered in the journal, with  
4 the votes and names of the members voting upon  
5 the question. No member shall be expelled a  
6 second time for the same cause.

7 Sec. 17. Each house of the legislature may  
8 establish the committees necessary for the effi-  
9 cient conduct of its business and the legislature  
10 may create joint committees. Each committee  
11 shall by roll call vote record the vote and name  
12 of all action on bills and resolutions taken in  
13 the committee. Such vote shall be available for  
14 public inspection. Notice of all committee hear-  
15 ings and a clear statement of all subjects to be  
16 considered at each hearing shall be published in  
17 the journal in advance of the hearing.

18 Sec. 18. Each house shall keep a journal of  
19 its proceedings, and publish the same unless the  
20 public security otherwise requires. The record  
21 of the vote and name of the members of either  
22 house voting on any question shall be entered  
23 in the journal at the request of one-fifth of the  
24 members present. Any member of either house  
25 may dissent from and protest against any act,  
26 proceeding or resolution which he deems injuri-  
27 ous to any person or the public, and have the  
28 reason for his dissent entered in the journal.

29 Sec. 19. All elections in either house or in  
30 joint convention and all votes on appointments  
31 submitted to the senate for advice and consent  
32 shall be published by vote and name in the journal.

33 Sec. 20. The doors of each house shall be open  
34 unless the public security otherwise requires.

35 Sec. 21. Neither house shall, without the con-  
36 sent of the other, adjourn for more than two  
37 intervening calendar days, nor to any place other  
38 than where the legislature may then be in session.

39 Sec. 22. All legislation shall be by bill and  
40 may originate in either house.

41 Sec. 23. The style of the laws shall be: The  
42 People of the State of Michigan enact.

43 Sec. 24. No law shall embrace more than one  
44 object, which shall be expressed in its title. No  
45 bill shall be altered or amended on its passage  
46 through either house so as to change its original  
47 purpose as determined by its total content and  
48 not alone by its title.

49 Sec. 25. No law shall be revised, altered or  
50 amended by reference to its title only. The section  
51 or sections of the act altered or amended shall  
52 be re-enacted and published at length.

53 Sec. 26. No bill shall be passed or become a  
54 law at any regular session of the legislature until  
55 it has been printed or reproduced and in the pos-  
56 session of each house for at least five days. Every  
57 bill shall be read three times in each house be-  
58 fore the final passage thereof. No bill shall be-  
59 come a law without the concurrence of a majority  
60 of the members elected to and serving in each

house. On the final passage of bills, the votes and names of the members voting thereon shall be entered in the journal.

Sec. 27. No act shall take effect until the expiration of 90 days from the end of the session at which it was passed, but the legislature may give immediate effect to acts by a two-thirds vote of the members elected to and serving in each house.

Sec. 28. When the legislature is convened on extraordinary occasions in special session no bill shall be passed on any subjects other than those expressly stated in the governor's proclamation or submitted by special message.

Sec. 29. The legislature shall pass no local or special act in any case where a general act can be made applicable, and whether a general act can be made applicable shall be a judicial question. No local or special act shall take effect until approved by two-thirds of the members elected to and serving in each house and by a majority of the electors voting thereon in the district affected. Any act repealing local or special acts shall require only a majority of the members elected to and serving in each house and shall not require submission to the electors of such district.

Sec. 30. The assent of two-thirds of the members elected to and serving in each house of the legislature shall be required for the appropriation of public money or property for local or private purposes.

Sec. 31. The general appropriation bills for the succeeding fiscal period covering items set forth in the budget shall be passed or rejected in either house of the legislature before that house passes any appropriation bill for items not in the budget except bills supplementing appropriations for the current fiscal year's operation. Any bill requiring an appropriation to carry out its purpose shall be considered an appropriation bill. One of the general appropriation bills as passed by the legislature shall contain an itemized statement of estimated revenue by major source in each operating fund for the ensuing fiscal period, the total of which shall not be less than the total of all appropriations made from each fund in the general appropriation bills as passed.

Sec. 32. Every law which imposes, continues or revives a tax shall distinctly state the tax.

Sec. 33. Every bill passed by the legislature shall be presented to the governor before it becomes law, and the governor shall have 14 days measured in hours and minutes from the time of presentation in which to consider it. If he approves, he shall within that time sign and file it with the secretary of state and it shall become law. If he does not approve, and the legislature has within that time finally adjourned the session at which the bill was passed, it shall not be-

come law. If he does not approve, and the legislature continues the session at which the bill was passed, he shall return it within such 14-day period with his objections, to the house in which it originated. That house shall enter such objections in full in its journal and reconsider the bill. If two-thirds of the members elected to and serving in that house pass the bill notwithstanding the objections of the governor, it shall be sent with the objections to the other house for reconsideration. The bill shall become law if passed by two-thirds of the members elected to and serving in that house. The vote of each house shall be entered in the journal with the votes and names of the members voting thereon. If any bill is not returned by the governor within such 14-day period, the legislature continuing in session, it shall become law as if he had signed it.

Sec. 34. Any bill passed by the legislature and approved by the governor, except a bill appropriating money, may provide that it will not become law unless approved by a majority of the electors voting thereon.

Sec. 35. All laws enacted at any session of the legislature shall be published in book form within 60 days after final adjournment of the session, and shall be distributed in the manner provided by law. The prompt publication of judicial decisions shall be provided by law. All laws and judicial decisions shall be free for publication by any person.

Sec. 36. No general revision of the laws shall be made. The legislature may provide for a compilation of the laws in force, arranged without alteration, under appropriate heads and titles.

Sec. 37. The legislature may by concurrent resolution empower a joint committee of the legislature acting between sessions to suspend until the end of the next regular legislative session any rule or regulation of an administrative agency promulgated when the legislature is not in regular session.

Sec. 38. The legislature may provide by law the cases in which any office shall be vacant and the manner of filling vacancies where no provision is made in this constitution.

Sec. 39. In order to insure continuity of state and local governmental operations in periods of emergency only, resulting from disasters occurring in this state caused by enemy attack on the United States, the legislature may provide by law for prompt and temporary succession to the powers and duties of public offices, of whatever nature and whether filled by election or appointment, the incumbents of which may become unavailable for carrying on the powers and duties of such offices; and enact other laws necessary and proper for insuring the continuity of governmental operations. Notwithstanding the power conferred by this section, elections shall always



be called as soon as possible to fill any vacancies in elective offices temporarily occupied by operation of any legislation enacted pursuant to the provisions of this section.

Sec. 40. The legislature may by law establish a liquor control commission which, subject to statutory limitations, shall exercise complete control of the alcoholic beverage traffic within this state, including the retail sales thereof. The legislature may provide for an excise tax on such sales. Neither the legislature nor the commission may authorize the manufacture or sale of alcoholic beverages in any county in which a majority of the electors voting thereon shall prohibit the same.

Sec. 41. The legislature shall not authorize any lottery nor permit the sale of lottery tickets.

Sec. 42. The legislature may provide for the incorporation of ports and port districts, and confer power and authority upon them to engage in work of internal improvements in connection therewith.

Sec. 43. No general law providing for the incorporation of trust companies or corporations for banking purposes, or regulating the business thereof, shall be enacted, amended or repealed except by a vote of two-thirds of the members elected to and serving in each house.

Sec. 44. The legislature may authorize a trial by a jury of less than 12 jurors in civil cases.

Sec. 45. The legislature may provide for indeterminate sentences as punishment for crime and for the detention and release of persons imprisoned or detained under such sentences.

Sec. 46. No law shall be enacted providing for the penalty of death.

Sec. 47. The legislature may authorize the employment of chaplains in state institutions of detention or confinement.

Sec. 48. The legislature may enact laws providing for the resolution of disputes concerning public employees, except those in the state classified civil service.

Sec. 49. The legislature may enact laws relative to the hours and conditions of employment.

Sec. 50. The legislature may provide safety measures and regulate the use of atomic energy and forms of energy developed in the future, having in view the general welfare of the people of this state.

Sec. 51. The public health and general welfare of the people of the state are hereby declared to be matters of primary public concern. The legislature shall pass suitable laws for the protection and promotion of the public health.

Sec. 52. The conservation and development of the natural resources of the state are hereby declared to be of paramount public concern in the interest of the health, safety and general welfare of the people. The legislature shall provide for the protection of the air, water and other

natural resources of the state from pollution, impairment and destruction.

Sec. 53. The legislature by a majority vote of the members elected to and serving in each house, shall appoint an auditor general, who shall be a certified public accountant licensed to practice in this state, to serve for a term of eight years. He shall be ineligible for appointment or election to any other public office in this state from which compensation is derived while serving as auditor general and for two years following the termination of his service. He may be removed for cause at any time by a two-thirds vote of the members elected to and serving in each house. The auditor general shall conduct post audits of financial transactions and accounts of the state and of all branches, departments, offices, boards, commissions, agencies, authorities and institutions of the state established by this constitution or by law, and performance post audits thereof.

The auditor general upon direction by the legislature may employ independent accounting firms or legal counsel and may make investigations pertinent to the conduct of audits. He shall report annually to the legislature and to the governor and at such other times as he deems necessary or as required by the legislature. He shall be assigned no duties other than those specified in this section.

Nothing in this section shall be construed in any way to infringe the responsibility and constitutional authority of the governing boards of the institutions of higher education to be solely responsible for the control and direction of all expenditures from the institutions' funds.

The auditor general, his deputy and one other member of his staff shall be exempt from classified civil service. All other members of his staff shall have classified civil service status.

## Article V

### Executive Branch

Sec. 1. The executive power is vested in the governor.

Sec. 2. All executive and administrative offices, agencies and instrumentalities of the executive branch of state government and their respective functions, powers and duties, except for the office of governor and lieutenant governor and the governing bodies of institutions of higher education provided for in this constitution, shall be allocated by law among and within not more than 20 principal departments. They shall be grouped as far as practicable according to major purposes.

Subsequent to the initial allocation, the governor may make changes in the organization of the executive branch or in the assignment of functions among its units which he considers necessary for efficient administration. Where these

changes require the force of law, they shall be set forth in executive orders and submitted to the legislature. Thereafter the legislature shall have 60 calendar days of a regular session, or a full session if of shorter duration, to disapprove each executive order. Unless disapproved in both houses by a resolution concurred in by a majority of the members elected to and serving in each house, each order shall become effective at a date thereafter to be designated by the governor.

Sec. 3. The head of each principal department shall be a single executive unless otherwise provided in this constitution or by law. The single executives heading principal departments shall include a secretary of state, a state treasurer and an attorney general. When a single executive is the head of a principal department, unless elected or appointed as otherwise provided in this constitution, he shall be appointed by the governor by and with the advice and consent of the senate and he shall serve at the pleasure of the governor.

When a board or commission is at the head of a principal department, unless elected or appointed as otherwise provided in this constitution, the members thereof shall be appointed by the governor by and with the advice and consent of the senate. The term of office and procedure for removal of such members shall be as prescribed in this constitution or by law.

Terms of office of any board or commission created or enlarged after the effective date of this constitution shall not exceed four years except as otherwise authorized in this constitution. The terms of office of existing boards and commissions which are longer than four years shall not be further extended except as provided in this constitution.

Sec. 4. Temporary commissions or agencies for special purposes with a life of no more than two years may be established by law and need not be allocated within a principal department.

Sec. 5. At no time shall an examining or licensing board of a profession include less than a majority of members of that profession.

Sec. 6. Appointment by and with the advice and consent of the senate when used in this constitution or laws in effect or hereafter enacted means appointment subject to disapproval by a majority vote of the members elected to and serving in the senate if such action is taken within 60 session days after the date of such appointment. Any appointment not disapproved within such period shall stand confirmed.

Sec. 7. Vacancies in any office, appointment to which requires advice and consent of the senate, shall be filled by the governor by and with the advice and consent of the senate. A person whose appointment has been disapproved by the senate shall not be eligible for an interim appointment

to the same office.

Sec. 8. Each principal department shall be under the supervision of the governor unless otherwise provided by this constitution. The governor shall take care that the laws be faithfully executed. He shall transact all necessary business with the officers of government and may require information in writing from all executive and administrative state officers, elective and appointive, upon any subject relating to the duties of their respective offices.

The governor may initiate court proceedings in the name of the state to enforce compliance with any constitutional or legislative mandate, or to restrain violations of any constitutional or legislative power, duty or right by any officer, department or agency of the state or any of its political subdivisions. This authority shall not be construed to authorize court proceedings against the legislature.

Sec. 9. Single executives heading principal departments and the chief executive officers of principal departments headed by boards or commissions shall keep their offices at the seat of government except as otherwise provided by law, superintend them in person and perform duties prescribed by law.

Sec. 10. The governor shall have power and it shall be his duty to inquire into the condition and administration of any public office and the acts of any public officer, elective or appointive. He may remove or suspend from office for gross neglect of duty or for corrupt conduct in office, or for any other misfeasance or malfeasance therein, any elective or appointive state officer, except legislative or judicial, and shall report the reasons for such removal or suspension to the legislature.

Sec. 11. The governor may make a provisional appointment to fill a vacancy occasioned by the suspension of an appointed or elected officer, other than a legislative or judicial officer, until he is reinstated or until the vacancy is filled in the manner prescribed by law or this constitution.

Sec. 12. The governor shall be commander-in-chief of the armed forces and may call them out to execute the laws, suppress insurrection and repel invasion.

Sec. 13. The governor shall issue writs of election to fill vacancies in the senate or house of representatives. Any such election shall be held in a manner prescribed by law.

Sec. 14. The governor shall have power to grant reprieves, commutations and pardons after convictions for all offenses, except cases of impeachment, upon such conditions and limitations as he may direct, subject to procedures and regulations prescribed by law. He shall inform the legislature annually of each reprieve, commutation and pardon granted, stating reasons

therefor.

Sec. 15. The governor may convene the legislature on extraordinary occasions.

Sec. 16. The governor may convene the legislature at some other place when the seat of government becomes dangerous from any cause.

Sec. 17. The governor shall communicate by message to the legislature at the beginning of each session and may at other times present to the legislature information as to the affairs of the state and recommend measures he considers necessary or desirable.

Sec. 18. The governor shall submit to the legislature at a time fixed by law, a budget for the ensuing fiscal period setting forth in detail, for all operating funds, the proposed expenditures and estimated revenue of the state. Proposed expenditures from any fund shall not exceed the estimated revenue thereof. On the same date, the governor shall submit to the legislature general appropriation bills to embody the proposed expenditures and any necessary bill or bills to provide new or additional revenues to meet proposed expenditures. The amount of any surplus created or deficit incurred in any fund during the last preceding fiscal period shall be entered as an item in the budget and in one of the appropriation bills. The governor may submit amendments to appropriation bills to be offered in either house during consideration of the bill by that house, and shall submit any bills to meet deficiencies in current appropriations.

Sec. 19. The governor may disapprove any distinct item or items appropriating moneys in any appropriation bill. The part or parts approved shall become law, and the item or items disapproved shall be void unless re-passed according to the method prescribed for the passage of other bills over the executive veto.

Sec. 20. No appropriation shall be a mandate to spend. The governor, with the approval of the appropriating committees of the house and senate, shall reduce expenditures authorized by appropriations whenever it appears that actual revenues for a fiscal period will fall below the revenue estimates on which appropriations for that period were based. Reductions in expenditures shall be made in accordance with procedures prescribed by law. The governor may not reduce expenditures of the legislative and judicial branches or from funds constitutionally dedicated for specific purposes.

Sec. 21. The governor, lieutenant governor, secretary of state and attorney general shall be elected for four-year terms at the general election in each alternate even-numbered year.

The lieutenant governor, secretary of state and attorney general shall be nominated by party conventions in a manner prescribed by law. In the general election one vote shall be cast jointly

for the candidates for governor and lieutenant governor nominated by the same party.

Vacancies in the office of the secretary of state and attorney general shall be filled by appointment by the governor.

Sec. 22. To be eligible for the office of governor or lieutenant governor a person must have attained the age of 30 years, and have been a registered elector in this state for four years next preceding his election.

Sec. 23. The governor, lieutenant governor, secretary of state and attorney general shall each receive the compensation provided by law in full payment for all services performed and expenses incurred during his term of office. Such compensation shall not be changed during the term of office except as otherwise provided in this constitution.

Sec. 24. An executive residence suitably furnished shall be provided at the seat of government for the use of the governor. He shall receive an allowance for its maintenance as provided by law.

Sec. 25. The lieutenant governor shall be president of the senate, but shall have no vote except in case of equal division. He may perform duties requested of him by the governor, but no power vested in the governor shall be delegated.

Sec. 26. In case of the conviction of the governor on impeachment, his removal from office, his resignation or his death, the lieutenant governor, the elected secretary of state, the elected attorney general and such other persons designated by law shall in that order be governor for the remainder of the governor's term.

In case of the death of the governor-elect, the lieutenant governor-elect, the secretary of state-elect, the attorney general-elect and such other persons designated by law shall become governor in that order at the commencement of the governor-elect's term.

If the governor or the person in line of succession to serve as governor is absent from the state, or suffering under an inability, the powers and duties of the office of governor shall devolve in order of precedence until the absence or inability giving rise to the devolution of powers ceases.

The inability of the governor or person acting as governor shall be determined by a majority of the supreme court on joint request of the president pro tempore of the senate and the speaker of the house of representatives. Such determination shall be final and conclusive. The supreme court shall upon its own initiative determine if and when the inability ceases.

Sec. 27. The legislature shall provide that the salary of any state officer while acting as governor shall be equal to that of the governor.

Sec. 28. There is hereby established a state highway commission, which shall administer the state highway department and have jurisdiction

and control over all state trunkline highways and appurtenant facilities, and such other public works of the state, as provided by law.

The state highway commission shall consist of four members, not more than two of whom shall be members of the same political party. They shall be appointed by the governor by and with the advice and consent of the senate for four-year terms, no two of which shall expire in the same year as provided by law.

The state highway commission shall appoint and may remove a state highway director, who shall be a competent highway engineer and administrator. He shall be the principal executive officer of the state highway department and shall be responsible for executing the policy of the state highway commission.

Sec. 29. There is hereby established a civil rights commission which shall consist of eight persons, not more than four of whom shall be members of the same political party, who shall be appointed by the governor, by and with the advice and consent of the senate, for four-year terms not more than two of which shall expire in the same year. It shall be the duty of the commission in a manner which may be prescribed by law to investigate alleged discrimination against any person because of religion, race, color or national origin in the enjoyment of the civil rights guaranteed by law and by this constitution, and to secure the equal protection of such civil rights without such discrimination. The legislature shall provide an annual appropriation for the effective operation of the commission.

The commission shall have power, in accordance with the provisions of this constitution and of general laws governing administrative agencies, to promulgate rules and regulations for its own procedures, to hold hearings, administer oaths, through court authorization to require the attendance of witnesses and the submission of records, to take testimony, and to issue appropriate orders. The commission shall have other powers provided by law to carry out its purposes. Nothing contained in this section shall be construed to diminish the right of any party to direct and immediate legal or equitable remedies in the courts of this state.

Appeals from final orders of the commission, including cease and desist orders and refusals to issue complaints, shall be tried de novo before the circuit court having jurisdiction provided by law.

## Article VI Judicial Branch

Sec. 1. The judicial power of the state is vested exclusively in one court of justice which shall be divided into one supreme court, one court of appeals, one trial court of general jurisdiction

known as the circuit court, one probate court, and other courts of limited jurisdiction that the legislature may establish by a two-thirds vote of the members elected to and serving in each house.

Sec. 2. The supreme court shall consist of seven justices elected at non-partisan elections as provided by law. The term of office shall be eight years and not more than two terms of office shall expire at the same time. Nominations for justices of the supreme court shall be in the manner prescribed by law. Any incumbent justice whose term is to expire may become a candidate for re-election by filing an affidavit of candidacy, in the form and manner prescribed by law, not less than 180 days prior to the expiration of his term.

Sec. 3. One justice of the supreme court shall be selected by the court as its chief justice as provided by rules of the court. He shall perform other duties required by the court. The supreme court shall appoint an administrator of the courts and other assistants of the supreme court as may be necessary to aid in the administration of the courts of this state. The administrator shall perform administrative duties assigned by the court.

Sec. 4. The supreme court shall have general superintending control over all courts; power to issue, hear, and determine prerogative and remedial writs; and appellate jurisdiction as provided by rules of the supreme court. The supreme court shall not have the power to remove a judge.

Sec. 5. The supreme court shall by general rules establish, modify, amend and simplify the practice and procedure in all courts of this state. The distinctions between law and equity proceedings shall, as far as practicable, be abolished. The office of master in chancery is prohibited.

Sec. 6. Decisions of the supreme court, including all decisions on prerogative writs, shall be in writing and shall contain a concise statement of the facts and reasons for each decision and reasons for each denial of leave to appeal. When a judge dissents in whole or in part he shall give in writing the reasons for his dissent.

Sec. 7. The supreme court may appoint, may remove, and shall have general supervision of its staff. It shall have control of the preparation of its budget recommendations and the expenditure of moneys appropriated for any purpose pertaining to the operation of the court or the performance of activities of its staff except that the salaries of the justices shall be established by law. All fees and perquisites collected by the court staff shall be turned over to the state treasury and credited to the general fund.

Sec. 8. The court of appeals shall consist initially of nine judges who shall be nominated and elected at non-partisan elections from districts drawn on county lines and as nearly as possible of equal population, as provided by law. The

supreme court may prescribe by rule that the court of appeals may sit in divisions and for the terms of court and the times and places thereof. Each such division shall consist of not fewer than three judges. The number of judges comprising the court of appeals may be increased, and the districts from which they are elected may be changed by law.

Sec. 9. Judges of the court of appeals shall hold office for a term of six years and until their successors are elected and qualified. The terms of office for the judges in each district shall be arranged by law to provide that not all terms will expire at the same time.

Sec. 10. The jurisdiction of the court of appeals shall be provided by law and the practice and procedure therein shall be prescribed by rules of the supreme court.

Sec. 11. The state shall be divided into judicial circuits along county lines in each of which there shall be elected one or more circuit judges as provided by law. Sessions of the circuit court shall be held at least four times in each year in every county organized for judicial purposes. Each circuit judge shall hold court in the county or counties within the circuit in which he is elected, and in other circuits as may be provided by rules of the supreme court. The number of judges may be changed and circuits may be created, altered and discontinued by law and the number of judges shall be changed and circuits shall be created, altered and discontinued on recommendation of the supreme court to reflect changes in judicial activity. No change in the number of judges or alteration or discontinuance of a circuit shall have the effect of removing a judge from office during his term.

Sec. 12. Circuit judges shall be nominated and elected at non-partisan elections in the circuit in which they reside, and shall hold office for a term of six years and until their successors are elected and qualified. In circuits having more than one circuit judge their terms of office shall be arranged by law to provide that not all terms will expire at the same time.

Sec. 13. The circuit court shall have original jurisdiction in all matters not prohibited by law; appellate jurisdiction from all inferior courts and tribunals except as otherwise provided by law; power to issue, hear and determine prerogative and remedial writs; supervisory and general control over inferior courts and tribunals within their respective jurisdictions in accordance with rules of the supreme court; and jurisdiction of other cases and matters as provided by rules of the supreme court.

Sec. 14. The clerk of each county organized for judicial purposes or other officer performing the duties of such office as provided in a county charter shall be clerk of the circuit court for such

county. The judges of the circuit court may fill a vacancy in an elective office of county clerk or prosecuting attorney within their respective jurisdictions.

Sec. 15. In each county organized for judicial purposes there shall be a probate court. The legislature may create or alter probate court districts of more than one county if approved in each affected county by a majority of the electors voting on the question. The legislature may provide for the combination of the office of probate judge with any judicial office of limited jurisdiction within a county with supplemental salary as provided by law. The jurisdiction, powers and duties of the probate court and of the judges thereof shall be provided by law. They shall have original jurisdiction in all cases of juvenile delinquents and dependents, except as otherwise provided by law.

Sec. 16. One or more judges of probate as provided by law shall be nominated and elected at non-partisan elections in the counties or the probate districts in which they reside and shall hold office for terms of six years and until their successors are elected and qualified. In counties or districts with more than one judge the terms of office shall be arranged by law to provide that not all terms will expire at the same time.

Sec. 17. No judge or justice of any court of this state shall be paid from the fees of his office nor shall the amount of his salary be measured by fees, other moneys received or the amount of judicial activity of his office.

Sec. 18. Salaries of justices of the supreme court, of the judges of the court of appeals, of the circuit judges within a circuit, and of the probate judges within a county or district, shall be uniform, and may be increased, but shall not be decreased during a term of office except and only to the extent of a general salary reduction in all other branches of government.

Each of the judges of the circuit court shall receive an annual salary as provided by law. In addition to the salary received from the state, each circuit judge may receive from any county in which he regularly holds court an additional salary as determined from time to time by the board of supervisors of the county. In any county where an additional salary is granted, it shall be paid at the same rate to all circuit judges regularly holding court therein.

Sec. 19. The supreme court, the court of appeals, the circuit court, the probate court and other courts designated as such by the legislature shall be courts of record and each shall have a common seal. Justices and judges of courts of record must be persons who are licensed to practice law in this state. No person shall be elected or appointed to a judicial office after reaching the age of 70 years.



1 Sec. 20. Whenever a justice or judge removes  
2 his domicile beyond the limits of the territory  
3 from which he was elected, he shall have vacated  
4 his office.

5 Sec. 21. Any justice or judge of a court of  
6 record shall be ineligible to be nominated for  
7 or elected to an elective office other than a judicial  
8 office during the period of his service and for  
9 one year thereafter.

10 Sec. 22. Any elected judge of the court of  
11 appeals, circuit court or probate court may be-  
12 come a candidate in the primary election for the  
13 office of which he is the incumbent by filing an  
14 affidavit of candidacy in the form and manner  
15 prescribed by law.

16 Sec. 23. A vacancy in the elective office of a  
17 judge of any court of record shall be filled at a  
18 general or special election as provided by law.  
19 The supreme court may authorize persons who  
20 have served as judges and who have retired, to  
21 perform judicial duties for the limited period of  
22 time from the occurrence of the vacancy until  
23 the successor is elected and qualified. Such per-  
24 sons shall be ineligible for election to fill the  
25 vacancy.

26 Sec. 24. There shall be printed upon the ballot  
27 under the name of each elected incumbent justice  
28 or judge who is a candidate for nomination or  
29 election to the same office the designation of  
30 that office.

31 Sec. 25. For reasonable cause, which is not  
32 sufficient ground for impeachment, the governor  
33 shall remove any judge on a concurrent resolution  
34 of two-thirds of the members elected to and serv-  
35 ing in each house of the legislature. The cause  
36 for removal shall be stated at length in the  
37 resolution.

38 Sec. 26. The offices of circuit court commis-  
39 sioner and justice of the peace are abolished at  
40 the expiration of five years from the date this  
41 constitution becomes effective or may within this  
42 period be abolished by law. Their jurisdiction,  
43 compensation and powers within this period shall  
44 be as provided by law. Within this five-year period,  
45 the legislature shall establish a court or courts  
46 of limited jurisdiction with powers and jurisdic-  
47 tion defined by law. The location of such court  
48 or courts, and the qualifications, tenure, method  
49 of election and salary of the judges of such court  
50 or courts, and by what governmental units the  
51 judges shall be paid, shall be provided by law,  
52 subject to the limitations contained in this Article.

53 Statutory courts in existence at the time this  
54 constitution becomes effective shall retain their  
55 powers and jurisdiction, except as provided by  
56 law, until they are abolished by law.

57 Sec. 27. The supreme court, the court of ap-  
58 peals, the circuit court, or any justices or judges  
59 thereof, shall not exercise any power of appoint-  
60 ment to public office except as provided in this

constitution.

1 Sec. 28. All final decisions, findings, rulings  
2 and orders of any administrative officer or agency  
3 existing under the constitution or by law, which  
4 are judicial or quasi-judicial and affect private  
5 rights or licenses, shall be subject to direct re-  
6 view by the courts as provided by law. This re-  
7 view shall include, as a minimum, the determina-  
8 tion whether such final decisions, findings, rulings  
9 and orders are authorized by law; and, in cases in  
10 which a hearing is required, whether the same  
11 are supported by competent, material and sub-  
12 stantial evidence on the whole record. Findings  
13 of fact in workmen's compensation proceedings  
14 shall be conclusive in the absence of fraud un-  
15 less otherwise provided by law.

16 Sec. 29. Justices of the supreme court, judges  
17 of the court of appeals, circuit judges and other  
18 judges as provided by law shall be conservators  
19 of the peace within their respective jurisdictions.

## Article VII

### Local Government

1 Sec. 1. Each organized county shall be a body  
2 corporate with powers and immunities provided  
3 by law.

4 Sec. 2. Any county may frame, adopt, amend  
5 or repeal a county charter in a manner and with  
6 powers and limitations to be provided by general  
7 law, which shall among other things provide for  
8 the election of a charter commission. The law  
9 may permit the organization of county govern-  
10 ment in form different from that set forth in this  
11 constitution and shall limit the rate of ad valorem  
12 property taxation for county purposes, and re-  
13 strict the powers of charter counties to borrow  
14 money and contract debts. Each charter county  
15 is hereby granted power to levy other taxes for  
16 county purposes subject to limitations and pro-  
17 hibitions set forth in this constitution or law.  
18 Subject to law, a county charter may authorize  
19 the county through its regularly constituted  
20 authority to adopt resolutions and ordinances re-  
21 lating to its concerns.

22 The board of supervisors by a majority vote  
23 of its members may, and upon petition of five  
24 percent of the electors shall, place upon the ballot  
25 the question of electing a commission to frame a  
26 charter.

27 No county charter shall be adopted, amended  
28 or repealed until approved by a majority of elec-  
29 tors voting on the question.

30 Sec. 3. No organized county shall be reduced  
31 by the organization of new counties to less than  
32 16 townships as surveyed by the United States,  
33 unless approved in the manner prescribed by law  
34 by a majority of electors voting thereon in each  
35 county to be affected.

36 Sec. 4. There shall be elected for four-year  
37 terms in each organized county a sheriff, a county



clerk, a county treasurer, a register of deeds and a prosecuting attorney, whose duties and powers shall be provided by law. The board of supervisors in any county may combine the offices of county clerk and register of deeds in one office or separate the same at pleasure.

Sec. 5. The sheriff, county clerk, county treasurer and register of deeds shall hold their principal offices at the county seat.

Sec. 6. The sheriff may be required by law to renew his security periodically and in default of giving such security, his office shall be vacant. The county shall never be responsible for his acts, except that the board of supervisors may protect him against claims by prisoners for unintentional injuries received while in his custody. He shall not hold any other office except in civil defense.

Sec. 7. A board of supervisors shall be established in each organized county consisting of one member from each organized township and such representation from cities as provided by law.

Sec. 8. Boards of supervisors shall have legislative, administrative and such other powers and duties as provided by law.

Sec. 9. Boards of supervisors shall have exclusive power to fix the compensation of county officers not otherwise provided by law.

Sec. 10. A county seat once established shall not be removed until the place to which it is proposed to be moved shall be designated by two-thirds of the members of the board of supervisors and a majority of the electors voting thereon shall have approved the proposed location in the manner prescribed by law.

Sec. 11. No county shall incur any indebtedness which shall increase its total debt beyond 10 percent of its assessed valuation.

Sec. 12. A navigable stream shall not be bridged or dammed without permission granted by the board of supervisors of the county as provided by law, which permission shall be subject to such reasonable compensation and other conditions as may seem best suited to safeguard the rights and interests of the county and political subdivisions therein.

Sec. 13. Two or more contiguous counties may combine into a single county if approved in each affected county by a majority of the electors voting on the question.

Sec. 14. The board of supervisors of each organized county may organize and consolidate townships under restrictions and limitations provided by law.

Sec. 15. Any county, when authorized by its board of supervisors shall have the authority to enter or to intervene in any action or certificate proceeding involving the services, charges or rates of any privately owned public utility furnishing services or commodities to rate payers within the county.

Sec. 16. The legislature may provide for the laying out, construction, improvement and maintenance of highways, bridges, culverts and airports by the state and by the counties and townships thereof; and may authorize counties to take charge and control of any highway within their limits for such purposes. The legislature may provide the powers and duties of counties in relation to highways, bridges, culverts and airports; may provide for county road commissioners to be appointed or elected, with powers and duties provided by law. The ad valorem property tax imposed for road purposes by any county shall not exceed in any year one-half of one percent of the assessed valuation for the preceding year.

Sec. 17. Each organized township shall be a body corporate with powers and immunities provided by law.

Sec. 18. In each organized township there shall be elected for terms of not less than two nor more than four years as prescribed by law a supervisor, a clerk, a treasurer, and not to exceed four trustees, whose legislative and administrative powers and duties shall be provided by law.

Sec. 19. No organized township shall grant any public utility franchise which is not subject to revocation at the will of the township, unless the proposition shall first have been approved by a majority of the electors of such township voting thereon at a regular or special election.

Sec. 20. The legislature shall provide by law for the dissolution of township government whenever all the territory of an organized township is included within the boundaries of a village or villages notwithstanding that a village may include territory within another organized township and provide by law for the classification of such village or villages as cities.

Sec. 21. The legislature shall provide by general laws for the incorporation of cities and villages. Such laws shall limit their rate of ad valorem property taxation for municipal purposes, and restrict the powers of cities and villages to borrow money and contract debts. Each city and village is granted power to levy other taxes for public purposes, subject to limitations and prohibitions provided by this constitution or by law.

Sec. 22. Under general laws the electors of each city and village shall have the power and authority to frame, adopt and amend its charter, and to amend an existing charter of the city or village heretofore granted or enacted by the legislature for the government of the city or village. Each such city and village shall have power to adopt resolutions and ordinances relating to its municipal concerns, property and government, subject to the constitution and law. No enumeration of powers granted to cities and villages in this constitution shall limit or restrict the general grant of authority conferred by this section.

1 Sec. 23. Any city or village may acquire, own,  
2 establish and maintain, within or without its  
3 corporate limits, parks, boulevards, cemeteries,  
4 hospitals and all works which involve the public  
5 health or safety.

6 Sec. 24. Subject to this constitution, any city  
7 or village may acquire, own or operate, within  
8 or without its corporate limits, public service  
9 facilities for supplying water, light, heat, power,  
10 sewage disposal and transportation to the municipi-  
11 lity and the inhabitants thereof.

12 Any city or village may sell and deliver heat,  
13 power or light without its corporate limits in an  
14 amount not exceeding 25 percent of that furnished  
15 by it within the corporate limits, except as greater  
16 amounts may be permitted by law; may sell and  
17 deliver water and provide sewage disposal services  
18 outside of its corporate limits in such amount as  
19 may be determined by the legislative body of the  
20 city or village; and may operate transportation  
21 lines outside the municipality within such limits  
22 as may be prescribed by law.

23 Sec. 25. No city or village shall acquire any  
24 public utility furnishing light, heat or power, or  
25 grant any public utility franchise which is not  
26 subject to revocation at the will of the city or  
27 village, unless the proposition shall first have been  
28 approved by three-fifths of the electors voting  
29 thereon. No city or village may sell any public  
30 utility unless the proposition shall first have been  
31 approved by a majority of the electors voting  
32 thereon, or a greater number if the charter shall  
33 so provide.

34 Sec. 26. Except as otherwise provided in this  
35 constitution, no city or village shall have the  
36 power to loan its credit for any private purpose  
37 or, except as provided by law, for any public pur-  
38 pose.

39 Sec. 27. Notwithstanding any other provision  
40 of this constitution the legislature may establish  
41 in metropolitan areas additional forms of govern-  
42 ment or authorities with powers, duties and juris-  
43 dictions as the legislature shall provide. Where-  
44 ever possible, such additional forms of govern-  
45 ment or authorities shall be designed to perform  
46 multi-purpose functions rather than a single  
47 function.

48 Sec. 28. The legislature by general law shall  
49 authorize two or more counties, townships, cities,  
50 villages or districts, or any combination thereof  
51 among other things to: enter into contractual  
52 undertakings or agreements with one another or  
53 with the state or with any combination thereof  
54 for the joint administration of any of the functions  
55 or powers which each would have the power to  
56 perform separately; share the costs and responsi-  
57 bilities of functions and services with one another  
58 or with the state or with any combination thereof  
59 which each would have the power to perform  
60 separately; transfer functions or responsibilities

1 to one another or any combination thereof upon  
2 the consent of each unit involved; cooperate with  
3 one another and with state government; lend their  
4 credit to one another or any combination thereof  
5 as provided by law in connection with any au-  
6 thorized publicly owned undertaking.

7 Any other provision of this constitution not-  
8 withstanding, an officer or employee of the state  
9 or any such unit of government or subdivision  
10 or agency thereof, except members of the legis-  
11 lature, may serve on or with any governmental  
12 body established for the purposes set forth in  
13 this section and shall not be required to relin-  
14 quish his office or employment by reason of such  
15 service.

16 Sec. 29. No person, partnership, association or  
17 corporation, public or private, operating a public  
18 utility shall have the right to the use of the high-  
19 ways, streets, alleys or other public places of  
20 any county, township, city or village for wires,  
21 poles, pipes, tracks, conduits or other utility  
22 facilities, without the consent of the duly con-  
23 stituted authority of the county, township, city  
24 or village; or to transact local business therein  
25 without first obtaining a franchise from the town-  
26 ship, city or village. Except as otherwise provided  
27 in this constitution the right of all counties, town-  
28 ships, cities and villages to the reasonable control  
29 of their highways, streets, alleys and public  
30 places is hereby reserved to such local units of  
31 government.

32 Sec. 30. No franchise or license shall be  
33 granted by any township, city or village for a  
34 period longer than 30 years.

35 Sec. 31. The legislature shall not vacate or  
36 alter any road, street, alley, or public place under  
37 the jurisdiction of any county, township, city or  
38 village.

39 Sec. 32. Any county, township, city, village,  
40 authority or school district empowered by the  
41 legislature or by this constitution to prepare bud-  
42 gets of estimated expenditures and revenues shall  
43 adopt such budgets only after a public hearing  
44 in a manner prescribed by law.

45 Sec. 33. Any elected officer of a political sub-  
46 division may be removed from office in the manner  
47 and for the causes provided by law.

48 Sec. 34. The provisions of this constitution and  
49 law concerning counties, townships, cities and vil-  
50 lages shall be liberally construed in their favor.  
51 Powers granted to counties and townships by this  
52 constitution and by law shall include those fairly  
53 implied and not prohibited by this constitution.

## Article VIII Education

1 Sec. 1. Religion, morality and knowledge being  
2 necessary to good government and the happiness  
3 of mankind, schools and the means of education  
4 shall forever be encouraged.

1 Sec. 2. The legislature shall maintain and sup-  
 2 port a system of free public elementary and sec-  
 3 ondary schools as defined by law. Every school  
 4 district shall provide for the education of its  
 5 pupils without discrimination as to religion, creed,  
 6 race, color or national origin.

7 Sec. 3. Leadership and general supervision over  
 8 all public education, including adult education and  
 9 instructional programs in state institutions, except  
 10 as to institutions of higher education granting  
 11 baccalaureate degrees, is vested in a state board  
 12 of education. It shall serve as the general plan-  
 13 ning and coordinating body for all public educa-  
 14 tion, including higher education, and shall advise  
 15 the legislature as to the financial requirements  
 16 in connection therewith.

17 The state board of education shall appoint a  
 18 superintendent of public instruction whose term  
 19 of office shall be determined by the board. He  
 20 shall be the chairman of the board without the  
 21 right to vote, and shall be responsible for the  
 22 execution of its policies. He shall be the principal  
 23 executive officer of a state department of educa-  
 24 tion which shall have powers and duties provided  
 25 by law.

26 The state board of education shall consist of  
 27 eight members who shall be nominated by party  
 28 conventions and elected at large for terms of  
 29 eight years as prescribed by law. The governor  
 30 shall fill any vacancy by appointment for the  
 31 unexpired term. The governor shall be ex-officio  
 32 a member of the state board of education with-  
 33 out the right to vote.

34 The power of the boards of institutions of higher  
 35 education provided in this constitution to super-  
 36 vise their respective institutions and control and  
 37 direct the expenditure of the institutions' funds  
 38 shall not be limited by this section.

39 Sec. 4. The legislature shall appropriate  
 40 moneys to maintain the university of Michigan,  
 41 Michigan State University, Wayne State Univer-  
 42 sity, Eastern Michigan University, Michigan Col-  
 43 lege of Science and Technology, Central Michi-  
 44 gan University, Northern Michigan University,  
 45 Western Michigan University, Ferris Institute,  
 46 Grand Valley State College, by whatever names  
 47 such institutions may hereafter be known, and  
 48 other institutions of higher education established  
 49 by law. The legislature shall be given an annual  
 50 accounting of all income and expenditures by each  
 51 of these educational institutions. Formal sessions  
 52 of governing boards of such institutions shall be  
 53 open to the public.

54 Sec. 5. The regents of the University of Michi-  
 55 gan and their successors in office shall constitute  
 56 a body corporate known as the Regents of the  
 57 University of Michigan; the trustees of Michigan  
 58 State University and their successors in office shall  
 59 constitute a body corporate known as the Board  
 60 of Trustees of Michigan State University; the

governors of Wayne State University and their  
 successors in office shall constitute a body corpor-  
 ate known as the Board of Governors of Wayne  
 State University. Each board shall have general  
 supervision of its institution and the control and  
 direction of all expenditures from the institution's  
 funds. Each board shall, as often as necessary,  
 elect a president of the institution under its su-  
 pervision. He shall be the principal executive of-  
 ficer of the institution, be ex-officio a member of  
 the board without the right to vote and preside  
 at meetings of the board. The board of each in-  
 stitution shall consist of eight members who shall  
 hold office for terms of eight years and who shall  
 be elected as provided by law. The governor shall  
 fill board vacancies by appointment. Each ap-  
 pointee shall hold office until a successor has been  
 nominated and elected as provided by law.

Sec. 6. Other institutions of higher education  
 established by law having authority to grant  
 baccalaureate degrees shall each be governed by  
 a board of control which shall be a body corporate.  
 The board shall have general supervision of the  
 institution and the control and direction of all  
 expenditures from the institution's funds. It shall,  
 as often as necessary, elect a president of the in-  
 stitution under its supervision. He shall be the  
 principal executive officer of the institution and  
 be ex-officio a member of the board without the  
 right to vote. The board may elect one of its mem-  
 bers or may designate the president, to preside at  
 board meetings. Each board of control shall con-  
 sist of eight members who shall hold office for  
 terms of eight years, not more than two of which  
 shall expire in the same year, and who shall be  
 appointed by the governor by and with the ad-  
 vice and consent of the senate. Vacancies shall  
 be filled in like manner.

Sec. 7. The legislature shall provide by law  
 for the establishment and financial support of  
 public community and junior colleges which shall  
 be supervised and controlled by locally elected  
 boards. The legislature shall provide by law for  
 a state board for public community and junior  
 colleges which shall advise the state board of  
 education concerning general supervision and plan-  
 ning for such colleges and requests for annual  
 appropriations for their support. The board shall  
 consist of eight members who shall hold office  
 for terms of eight years, not more than two of  
 which shall expire in the same year, and who shall  
 be appointed by the state board of education. Va-  
 cancies shall be filled in like manner. The super-  
 intendent of public instruction shall be ex-officio  
 a member of this board without the right to vote.

Sec. 8. Institutions, programs, and services for  
 the care, treatment, education or rehabilitation of  
 those inhabitants who are physically, mentally, or  
 otherwise seriously handicapped shall always be  
 fostered and supported.

1     Sec. 9. The legislature shall provide by law for  
2     the establishment and support of public libraries  
3     which shall be available to all residents of the state  
4     under regulations adopted by the governing bodies  
5     thereof. All fines assessed and collected in the  
6     several counties, cities and townships for any  
7     breach of the penal laws shall be exclusively ap-  
8     plied to the support of such public libraries, and  
9     county law libraries as provided by law.

#### Article IX

##### Finance and Taxation

10    Sec. 1. The legislature shall impose taxes suf-  
11    ficient with other resources to pay the expenses of  
12    state government.

13    Sec. 2. The power of taxation shall never be  
14    surrendered, suspended or contracted away.

15    Sec. 3. The legislature shall provide for the  
16    uniform general ad valorem taxation of real and  
17    tangible personal property not exempt by law. The  
18    legislature shall provide for the determination of  
19    true cash value of such property; the proportion  
20    of true cash value at which such property shall  
21    be uniformly assessed, which shall not, after  
22    January 1, 1966, exceed 50 percent; and for a sys-  
23    tem of equalization of assessments. The legislature  
24    may provide for alternative means of taxation of  
25    designated real and tangible personal property in  
26    lieu of general ad valorem taxation. Every tax  
27    other than the general ad valorem property tax  
28    shall be uniform upon the class or classes on  
29    which it operates.

30    Sec. 4. Property owned and occupied by non-  
31    profit religious or educational organizations and  
32    used exclusively for religious or educational pur-  
33    poses, as defined by law, shall be exempt from  
34    real and personal property taxes.

35    Sec. 5. The legislature shall provide for the  
36    assessment by the state of the property of those  
37    public service businesses assessed by the state  
38    at the date this constitution becomes effective, and  
39    of other property as designated by the legislature,  
40    and for the imposition and collection of taxes  
41    thereon. Property assessed by the state shall be  
42    assessed at the same proportion of its true  
43    cash value as the legislature shall specify for  
44    property subject to general ad valorem taxation.  
45    The rate of taxation on such property shall be  
46    the average rate levied upon other property in this  
47    state under the general ad valorem tax law, or,  
48    if the legislature provides, the rate of tax applica-  
49    ble to the property of each business enterprise assessed  
50    by the state shall be the average rate of ad valorem  
51    taxation levied upon other property in all counties  
52    in which any of such property is situated.

53    Sec. 6. Except as otherwise provided in this  
54    constitution, the total amount of general ad valo-  
55    rem taxes imposed upon real and tangible per-  
56    sonal property for all purposes in any one year  
57    shall not exceed 15 mills on each dollar of the

58    assessed valuation of property as finally equalized.  
59    Under procedures provided by law, which shall  
60    guarantee the right of initiative, separate tax  
61    limitations for any county and for the townships  
62    and for school districts therein, the aggregate of  
63    which shall not exceed 18 mills on each dollar of  
64    such valuation, may be adopted and thereafter  
65    altered by the vote of a majority of the qualified  
66    electors of such county voting thereon, in lieu  
67    of the limitation hereinbefore established. These  
68    limitations may be increased to an aggregate of  
69    not to exceed 50 mills on each dollar of valuation,  
70    for a period of not to exceed 20 years at any one  
71    time, if approved by a majority of the electors,  
72    qualified under Section 6 of Article II of this  
73    constitution, voting on the question.

74    The foregoing limitations shall not apply to  
75    taxes imposed for the payment of principal and  
76    interest on bonds or other evidences of indebted-  
77    ness or for the payment of assessments or con-  
78    tract obligations in anticipation of which bonds  
79    are issued, which taxes may be imposed without  
80    limitation as to rate or amount; or to taxes im-  
81    posed for any other purpose by any city, vil-  
82    lage, charter county, charter township, charter  
83    authority or other authority, the tax limitations  
84    of which are provided by charter or by general  
85    law.

86    In any school district which extends into two  
87    or more counties, property taxes at the highest  
88    rate available in the county which contains the  
89    greatest part of the area of the district may be  
90    imposed and collected for school purposes through-  
91    out the district.

92    Sec. 7. No income tax graduated as to rate  
93    or base shall be imposed by the state or any of  
94    its subdivisions.

95    Sec. 8. The legislature shall not impose a  
96    sales tax on retailers at a rate of more than  
97    four percent of their gross taxable sales of  
98    tangible personal property.

99    Sec. 9. All specific taxes, except general sales  
100    and use taxes and regulatory fees, imposed di-  
101    rectly or indirectly on fuels sold or used  
102    to propel motor vehicles upon highways and on  
103    registered motor vehicles shall, after the payment  
104    of necessary collection expenses, be used exclusi-  
105    vely for highway purposes as defined by law.

106    Sec. 10. One-eighth of all taxes imposed on  
107    retailers on taxable sales at retail of tangible  
108    personal property shall be used exclusively for  
109    assistance to townships, cities and villages, on  
110    a population basis as provided by law. In de-  
111    termining population the legislature may exclude  
112    any portion of the total number of persons who  
113    are wards, patients or convicts in any tax sup-  
114    ported institution.

115    Sec. 11. There shall be established a state  
116    school aid fund which shall be used exclusively  
117    for the support of public education and school

employees' retirement systems, as provided by law. One-half of all taxes imposed on retailers on taxable sales at retail of tangible personal property, and other tax revenues provided by law, shall be dedicated to this fund. Payments from this fund shall be made in full on a scheduled basis, as provided by law.

Sec. 12. No evidence of state indebtedness shall be issued except for debts authorized pursuant to this constitution.

Sec. 13. Public bodies corporate shall have power to borrow money and to issue their securities evidencing debt, subject to this constitution and law.

Sec. 14. To meet obligations incurred pursuant to appropriations for any fiscal year, the legislature may by law authorize the state to issue its full faith and credit notes in which case it shall pledge undedicated revenues to be received within the same fiscal year for the repayment thereof. Such indebtedness in any fiscal year shall not exceed 15 percent of undedicated revenues received by the state during the preceding fiscal year and such debts shall be repaid at the time the revenues so pledged are received, but not later than the end of the same fiscal year.

Sec. 15. The state may borrow money for specific purposes in amounts as may be provided by acts of the legislature adopted by a vote of two-thirds of the members elected to and serving in each house, and approved by a majority of the electors voting thereon at any general election. The question submitted to the electors shall state the amount to be borrowed, the specific purpose to which the funds shall be devoted, and the method of repayment.

Sec. 16. The state, in addition to any other borrowing power, may borrow from time to time such amounts as shall be required, pledge its faith and credit and issue its notes or bonds therefor, for the purpose of making loans to school districts as provided in this section.

If the minimum amount which would otherwise be necessary for a school district to levy in any year to pay principal and interest on its qualified bonds, including any necessary allowances for estimated tax delinquencies, exceeds 13 mills on each dollar of its assessed valuation as finally equalized, or such lower millage as the legislature may prescribe, then the school district may elect to borrow all or any part of the excess from the state. In that event the state shall lend the excess amount to the school district for the payment of principal and interest. If for any reason any school district will be or is unable to pay the principal and interest on its qualified bonds when due, then the school district shall borrow and the state shall lend to it an amount sufficient to enable the school district to make the payment.

The term "qualified bonds" means general obli-

gation bonds of school districts issued for capital expenditures, including refunding bonds, issued prior to May 4, 1955, or issued thereafter and qualified as provided by law pursuant to Section 27 or Section 28 of Article X of the Constitution of 1908 or pursuant to this section.

After a school district has received loans from the state, each year thereafter it shall levy for debt service, exclusive of levies for nonqualified bonds, not less than 13 mills or such lower millage as the legislature may prescribe, until the amount loaned has been repaid, and any tax collections therefrom in any year over and above the minimum requirements for principal and interest on qualified bonds shall be used toward the repayment of state loans. In any year when such levy would produce an amount in excess of the requirements and the amount due to the state, the levy may be reduced by the amount of the excess.

Subject to the foregoing provisions, the legislature shall have the power to prescribe and to limit the procedure, terms and conditions for the qualification of bonds, for obtaining and making state loans, and for the repayment of loans.

The power to tax for the payment of principal and interest on bonds hereafter issued which are the general obligations of any school district, including refunding bonds, and for repayment of any state loans made to school districts, shall be without limitation as to rate or amount.

All rights acquired under Sections 27 and 28 of Article X of the Constitution of 1908, by holders of bonds heretofore issued, and all obligations assumed by the state or any school district under these sections, shall remain unimpaired.

Sec. 17. No money shall be paid out of the state treasury except in pursuance of appropriations made by law.

Sec. 18. The credit of the state shall not be granted to, nor in aid of any person, association or corporation, public or private, except as authorized in this constitution.

This section shall not be construed to prohibit the investment of public funds until needed for current requirements or the investment of funds accumulated to provide retirement or pension benefits for public officials and employees, as provided by law.

Sec. 19. The state shall not subscribe to, nor be interested in the stock of any company, association or corporation, except that funds accumulated to provide retirement or pension benefits for public officials and employees may be invested as provided by law; and endowment funds created for charitable or educational purposes may be invested as provided by law governing the investment of funds held in trust by trustees.

Sec. 20. No state money shall be deposited in banks other than those organized under the national or state banking laws. No state money

1 shall be deposited in any bank in excess of 50  
2 percent of the capital and surplus of such bank.  
3 Any bank receiving deposits of state money shall  
4 show the amount of state money so deposited as  
5 a separate item in all published statements.

6 Sec. 21. The legislature shall provide by law  
7 for the annual accounting for all public moneys,  
8 state and local, and may provide by law for interim  
9 accounting.

10 The legislature shall provide by law for the  
11 maintenance of uniform accounting systems by  
12 units of local government and the auditing of  
13 county accounts by competent state authority  
14 and other units of government as provided by law.

15 Sec. 22. Procedures for the examination and  
16 adjustment of claims against the state shall be  
17 prescribed by law.

18 Sec. 23. All financial records, accountings,  
19 audit reports and other reports of public moneys  
20 shall be public records and open to inspection. A  
21 statement of all revenues and expenditures of pub-  
22 lic moneys shall be published and distributed  
23 annually, as provided by law.

24 Sec. 24. The accrued financial benefits of each  
25 pension plan and retirement system of the state  
26 and its political subdivisions shall be a contractual  
27 obligation thereof which shall not be diminished  
28 or impaired thereby.

29 Financial benefits arising on account of service  
30 rendered in each fiscal year shall be funded during  
31 that year and such funding shall not be used for  
32 financing unfunded accrued liabilities.

#### Article X Property

33 Sec. 1. The disabilities of coverture as to prop-  
34 erty are abolished. The real and personal estate of  
35 every woman acquired before marriage and all  
36 real and personal property to which she may after-  
37 wards become entitled shall be and remain the  
38 estate and property of such woman, and shall not  
39 be liable for the debts, obligations or engagements  
40 of her husband, and may be dealt with and dis-  
41 posed of by her as if she were unmarried. Dower  
42 may be relinquished or conveyed as provided by  
43 law.

44 Sec. 2. Private property shall not be taken for  
45 public use without just compensation therefor  
46 being first made or secured in a manner prescribed  
47 by law. The amount of compensation shall be  
48 determined in proceedings in a court of record.

49 Sec. 3. A homestead in the amount of not less  
50 than \$3,500 and personal property of every resi-  
51 dent of this state in the amount of not less than  
52 \$750, as defined by law, shall be exempt from  
53 forced sale on execution or other process of any  
54 court. Such exemptions shall not extend to any  
55 lien thereon excluded from exemption by law.

56 Sec. 4. Procedures relating to escheats and to  
57 the custody and disposition of escheated property

shall be prescribed by law.

58 Sec. 5. The legislature shall have general su-  
59 pervisory jurisdiction over all state owned lands  
60 useful for forest preserves, game areas and recrea-  
61 tional purposes; shall require annual reports as  
62 to such lands from all departments having super-  
63 vision or control thereof; and shall by general law  
64 provide for the sale, lease or other disposition of  
65 such lands.

66 The legislature by an act adopted by two-thirds  
67 of the members elected to and serving in each  
68 house may designate any part of such lands as  
69 a state land reserve. No lands in the state land  
70 reserve may be removed from the reserve, sold,  
71 leased or otherwise disposed of except by an act  
72 of the legislature.

73 Sec. 6. Aliens who are residents of this state  
74 shall enjoy the same rights and privileges in  
75 property as citizens of this state.

#### Article XI

##### Public Officers and Employment

76 Sec. 1. All officers, legislative, executive and  
77 judicial, before entering upon the duties of their  
78 respective offices, shall take and subscribe the  
79 following oath or affirmation: I do solemnly swear  
80 (or affirm) that I will support the Constitution  
81 of the United States and the constitution of this  
82 state, and that I will faithfully discharge the duties  
83 of the office of ..... according to the best of  
84 my ability. No other oath, affirmation, or any  
85 religious test shall be required as a qualification  
86 for any office or public trust.

87 Sec. 2. The terms of office of elective state  
88 officers, members of the legislature and justices  
89 and judges of courts of record shall begin at twelve  
90 o'clock noon on the first day of January next suc-  
91 ceeding their election, except as otherwise provided  
92 in this constitution. The terms of office of county  
93 officers shall begin on the first day of January  
94 next succeeding their election, except as otherwise  
95 provided by law.

96 Sec. 3. Neither the legislature nor any poli-  
97 tical subdivision of this state shall grant or author-  
98 ize extra compensation to any public officer, agent  
99 or contractor after the service has been rendered  
100 or the contract entered into.

101 Sec. 4. No person having custody or control of  
102 public moneys shall be a member of the legislature,  
103 or be eligible to any office of trust or profit under  
104 this state, until he shall have made an accounting,  
105 as provided by law, of all sums for which he may  
106 be liable.

107 Sec. 5. The classified state civil service shall  
108 consist of all positions in the state service except  
109 those filled by popular election, heads of principal  
110 departments, members of boards and commis-  
111 sions, the principal executive officer of boards and  
112 commissions heading principal departments, em-  
113 ployees of courts of record, employees of the legis-



lature, employees of the state institutions of higher education, all persons in the armed forces of the state, eight exempt positions in the office of the governor, and within each principal department, when requested by the department head, two other exempt positions, one of which shall be policy-making. The civil service commission may exempt three additional positions of a policy-making nature within each principal department.

The civil service commission shall be non-salaried and shall consist of four persons, not more than two of whom shall be members of the same political party, appointed by the governor for terms of eight years, no two of which shall expire in the same year.

The administration of the commission's powers shall be vested in a state personnel director who shall be a member of the classified service and who shall be responsible to and selected by the commission after open competitive examination.

The commission shall classify all positions in the classified service according to their respective duties and responsibilities, fix rates of compensation for all classes of positions, approve or disapprove disbursements for all personal services, determine by competitive examination and performance exclusively on the basis of merit, efficiency and fitness the qualifications of all candidates for positions in the classified service, make rules and regulations covering all personnel transactions, and regulate all conditions of employment in the classified service.

No person shall be appointed to or promoted in the classified service who has not been certified by the commission as qualified for such appointment or promotion. No appointments, promotions, demotions or removals in the classified service shall be made for religious, racial or partisan considerations.

Increases in rates of compensation authorized by the commission may be effective only at the start of a fiscal year and shall require prior notice to the governor, who shall transmit such increases to the legislature as part of his budget. The legislature may, by a majority vote of the members elected to and serving in each house, waive the notice and permit increases in rates of compensation to be effective at a time other than the start of a fiscal year. Within 60 calendar days following such transmission, the legislature may, by a two-thirds vote of the members elected to and serving in each house, reject or reduce increases in rates of compensation authorized by the commission. Any reduction ordered by the legislature shall apply uniformly to all classes of employees affected by the increases and shall not adjust pay differentials already established by the civil service commission. The legislature may not reduce rates of compensation below those in effect at the time of the transmission of increases author-

ized by the commission.

The appointing authorities may create or abolish positions for reasons of administrative efficiency without the approval of the commission. Positions shall not be created nor abolished except for reasons of administrative efficiency. Any employee considering himself aggrieved by the abolition of a position shall have a right of appeal to the commission through established grievance procedures.

The civil service commission shall recommend to the governor and to the legislature rates of compensation for all appointed positions within the executive department not a part of the classified service.

To enable the commission to exercise its powers, the legislature shall appropriate to the commission for the ensuing fiscal year a sum not less than one percent of the aggregate payroll of the classified service for the preceding fiscal year, as certified by the commission. Within six months after the conclusion of each fiscal year the commission shall return to the state treasury all moneys unexpended for that fiscal year.

The commission shall furnish reports of expenditures, at least annually, to the governor and the legislature and shall be subject to annual audit as provided by law.

No payment for personal services shall be made or authorized until the provisions of this constitution pertaining to civil service have been complied with in every particular. Violation of any of the provisions hereof may be restrained or observance compelled by injunctive or mandamus proceedings brought by any citizen of the state.

Sec. 6. By ordinance or resolution of its governing body which shall not take effect until approved by a majority of the electors voting thereon, unless otherwise provided by charter, each county, township, city, village, school district and other governmental unit or authority may establish, modify or discontinue a merit system for its employees other than teachers under contract or tenure. The state civil service commission may on request furnish technical services to any such unit on a reimbursable basis.

Sec. 7. The house of representatives shall have the sole power of impeaching civil officers for corrupt conduct in office or for crimes or misdemeanors, but a majority of the members elected and serving shall be necessary to direct an impeachment.

When an impeachment is directed, the house of representatives shall elect three of its members to prosecute the impeachment.

Every impeachment shall be tried by the senate immediately after the final adjournment of the legislature. The senators shall take an oath or affirmation truly and impartially to try and determine the impeachment according to the evi-

1 dence. When the governor or lieutenant governor  
2 is tried, the chief justice of the supreme court  
3 shall preside.

4 No person shall be convicted without the con-  
5 currence of two-thirds of the senators elected and  
6 serving. Judgment in case of conviction shall not  
7 extend further than removal from office, but the  
8 person convicted shall be liable to punishment  
9 according to law.

10 No judicial officer shall exercise any of the  
11 functions of his office after an impeachment is  
12 directed until he is acquitted.

## Article XII

### Amendment & Revision

14 Sec. 1. Amendments to this constitution may  
15 be proposed in the senate or house of representa-  
16 tives. Proposed amendments agreed to by two-  
17 thirds of the members elected to and serving in  
18 each house on a vote with the names and vote of  
19 those voting entered in the respective journals  
20 shall be submitted, not less than 60 days there-  
21 after, to the electors at the next general election  
22 or special election as the legislature shall direct.  
23 If a majority of electors voting on a proposed  
24 amendment approve the same, it shall become  
25 part of the constitution and shall abrogate or  
26 amend existing provisions of the constitution at  
27 the end of 45 days after the date of the election  
28 at which it was approved.

29 Sec. 2. Amendments may be proposed to this  
30 constitution by petition of the registered electors  
31 of this state. Every petition shall include the full  
32 text of the proposed amendment, and be signed by  
33 registered electors of the state equal in number to  
34 at least 10 percent of the total vote cast for  
35 all candidates for governor at the last preceding  
36 general election at which a governor was elected.  
37 Such petitions shall be filed with the person au-  
38 thorized by law to receive the same at least 120  
39 days before the election at which the proposed  
40 amendment is to be voted upon. Any such petition  
41 shall be in the form, and shall be signed and  
42 circulated in such manner, as prescribed by law.  
43 The person authorized by law to receive such peti-  
44 tion shall upon its receipt determine, as provided  
45 by law, the validity and sufficiency of the signa-  
46 tures on the petition, and make an official an-  
47 nouncement thereof at least 60 days prior to the  
48 election at which the proposed amendment is to be  
49 voted upon.

50 Any amendment proposed by such petition shall  
51 be submitted, not less than 120 days after it was  
52 filed, to the electors at the next general election.  
53 Such proposed amendment, existing provisions of  
54 the constitution which would be altered or abro-  
55 gated thereby, and the question as it shall appear  
56 on the ballot shall be published in full as provided  
57 by law. Copies of such publication shall be posted  
58 in each polling place and furnished to news media

as provided by law.

59 The ballot to be used in such election shall con-  
60 tain a statement of the purpose of the proposed  
amendment, expressed in not more than 100 words,  
exclusive of caption. Such statement of purpose  
and caption shall be prepared by the person au-  
thorized by law, and shall consist of a true and  
impartial statement of the purpose of the amend-  
ment in such language as shall create no prejudice  
for or against the proposed amendment.

61 If the proposed amendment is approved by a  
62 majority of the electors voting on the question,  
63 it shall become part of the constitution, and  
64 shall abrogate or amend existing provisions of  
65 the constitution at the end of 45 days after  
66 the date of the election at which it was ap-  
67 proved. If two or more amendments approved by  
68 the electors at the same election conflict, that  
69 amendment receiving the highest affirmative vote  
70 shall prevail.

71 Sec. 3. At the general election to be held in  
72 the year 1978, and in each 16th year thereafter  
73 and at such times as may be provided by law, the  
74 question of a general revision of the constitution  
75 shall be submitted to the electors of the state. If  
76 a majority of the electors voting on the question  
77 decide in favor of a convention for such purpose,  
78 at an election to be held not later than six months  
79 after the proposal was certified as approved, the  
80 electors of each representative district as then  
81 organized shall elect one delegate and the elec-  
82 tors of each senatorial district as then organized  
83 shall elect one delegate at a partisan election.  
84 The delegates so elected shall convene at the seat  
85 of government on the first Tuesday in October  
86 next succeeding such election or at an earlier date  
87 if provided by law.

88 The convention shall choose its own officers,  
89 determine the rules of its proceedings and judge  
90 the qualifications, elections and returns of its mem-  
91 bers. The governor shall appoint a qualified  
92 resident of the same district to fill a vacancy  
93 in the office of any delegate who shall be a mem-  
94 ber of the same party as the delegate vacating  
95 the office. The convention shall have power to ap-  
96 point such officers, employees and assistants as  
97 it deems necessary and to fix their compensation;  
98 to provide for the printing and distribution of its  
99 documents, journals and proceedings; to explain  
100 and disseminate information about the proposed  
constitution and to complete the business of the  
convention in an orderly manner. Each delegate  
shall receive for his services compensation pro-  
vided by law.

101 No proposed constitution or amendment adopted  
102 by such convention shall be submitted to the  
103 electors for approval as hereinafter provided un-  
104 less by the assent of a majority of all the delegates  
105 elected to and serving in the convention, with the  
106 names and vote of those voting entered in the

journal. Any proposed constitution or amendments adopted by such convention shall be submitted to the qualified electors in the manner and at the time provided by such convention not less than 90 days after final adjournment of the convention. Upon the approval of such constitution or amendments by a majority of the qualified electors voting thereon the constitution or amendments shall take effect as provided by the convention.

#### Schedule and Temporary Provisions

To insure the orderly transition from the constitution of 1908 to this constitution the following schedule and temporary provisions are set forth to be effective for such period as are thereby required.

Sec. 1. The attorney general shall recommend to the legislature as soon as practicable such changes as may be necessary to adapt existing laws to this constitution.

Sec. 2. All writs, actions, suits, proceedings, civil or criminal liabilities, prosecutions, judgments, sentences, orders, decrees, appeals, causes of action, contracts, claims, demands, titles and rights existing on the effective date of this constitution shall continue unaffected except as modified in accordance with the provisions of this constitution.

Sec. 3. Except as otherwise provided in this constitution, all officers filling any office by election or appointment shall continue to exercise their powers and duties until their offices shall have been abolished or their successors selected and qualified in accordance with this constitution or the laws enacted pursuant thereto.

No provision of this constitution, or of law or of executive order authorized by this constitution shall shorten the term of any person elected to state office at a statewide election on or prior to the date on which this constitution is submitted to a vote. In the event the duties of any such officers shall not have been abolished or incorporated into one or more of the principal departments at the expiration of his term, such officer shall continue to serve until his duties are so incorporated or abolished.

Sec. 4. All officers elected at the same election that this constitution is submitted to the people for adoption shall take office and complete the term to which they were elected under the 1908 constitution and existing laws and continue to serve until their successors are elected and qualified pursuant to this constitution or law.

Sec. 5. Notwithstanding any other provision in this constitution, the governor, the lieutenant governor, the secretary of state, the attorney general, and state senators shall be elected at the general election in 1964 to serve for two year terms beginning on the first day of January next

succeeding their election. The first election of such officers for four-year terms under this constitution shall be held at the general election in 1966.

Sec. 6. The state shall be districted for the purpose of electing senators in accordance with the provisions of Section 2 of Article IV of this constitution, after the official publication of the total population count of the 1970 decennial federal census. Until the apportionment of the senate following the 1970 census, the senatorial districts under the 1908 constitution shall remain intact except that upon the adoption of this constitution each of the counties of Kent, Genesee, Macomb and Oakland shall be divide by the apportionment commission into two senatorial districts and Wayne county into eight senatorial districts in accordance with this constitution. The legislature may give prior effect to Section 2 of Article IV of this constitution, which action shall not be subject to veto by the governor.

Sec. 7. Notwithstanding the provisions of this constitution that the supreme court shall consist of seven justices it shall consist of eight justices until the time that a vacancy occurs as a result of death, retirement or resignation of a justice. The first such vacancy shall not be filled.

Sec. 8. Any judge of probate serving on the effective date of this constitution may serve the remainder of the term and be eligible to succeed himself for election regardless of other provisions in this constitution requiring him to be licensed to practice law in this state.

Sec. 9. The provisions of Article VI providing that terms of judicial offices shall not all expire at the same time, shall be implemented by law providing that at the next election for such offices judges shall be elected for terms of varying length, none of which shall be shorter than the regular term provided for the office.

Sec. 10. The members of the state board of education provided for in Section 3 of Article VIII of this constitution shall first be elected at the first general election after the effective date of this constitution for the following terms: two shall be elected for two years, two for four years, two for six years, and two for eight years as prescribed by law.

The State Board of Education provided for in the constitution of 1908 is abolished at twelve o'clock noon January 1 of the year following the first general election under this constitution and the terms of members thereof shall then expire.

Sec. 11. The provisions of this constitution providing for members of boards of control of institutions of higher education and the State Board of Public Community and Junior Colleges shall be implemented by law. The law may provide that the term of each member in office on the date of the vote on this constitution may be

extended, and may further provide that the initial terms of office of members may be less than eight years.

Sec. 12. The provisions of this constitution increasing the number of members of the Board of Trustees of Michigan State University and of the Board of Governors of Wayne State University to eight, and of their term of office to eight years, shall be implemented by law. The law may provide that the term of each member in office on the date of the vote on this constitution may be extended one year, and may further provide that the initial terms of office of the additional members may be less than eight years.

Sec. 13. The initial allocation of departments by law pursuant to Section 2 of Article V of this constitution, shall be completed within two years after the effective date of this constitution. If such allocation shall not have been completed within such period, the governor, within one year thereafter, by executive order, shall make the initial allocation.

Sec. 14. Contractual obligations of the state incurred pursuant to the constitution of 1908 shall continue to be obligations of the state.

For the retirement of notes and bonds issued under Section 26 of Article X of the 1908 constitution, there is hereby appropriated from the general fund each year during their life a sum equal to the amount of principal and interest payments due and payable in each year.

Sec. 15. The legislature by a vote of two-thirds of the members elected to and serving in each house may provide that the state may bor-

row money and may pledge its full faith and credit for refunding any bonds issued by the Mackinac Bridge Authority and at the time of refunding the Mackinac Bridge Authority shall be abolished and the operation of the bridge shall be assumed by the state highway department. The legislature may implement this section by law.

Sec. 16. This constitution shall be submitted to the people for their adoption or rejection at the general election to be held on the Tuesday after the first Monday of November, 1962. It shall be the duty of the secretary of state forthwith to give notice of such submission to all other officers required to give or publish any notice in regard to a general election. He shall give notice that this constitution will be duly submitted to the electors at such election. The notice shall be given in the manner required for the election of governor.

Sec. 17. Every registered elector may vote on the adoption of the constitution. The board of election commissioners in each county shall cause to be printed on a ballot separate from the ballot containing the names of the nominees for office, the words: Shall the revised constitution be adopted? ( ) Yes. ( ) No. All votes cast at the election shall be taken, counted, canvassed and returned as provided by law for the election of state officers. If the revised constitution so submitted receives more votes in its favor than were cast against it, it shall be the supreme law of the state on and after the first day of January of the year following its adoption.

against the secretary of state, by Mr. Van Dusen, chairman, submits the following report:

In accordance with Resolution 96, the committee on action against secretary of state on May 14, 1962, filed with the circuit court for the county of Ingham, a petition for declaration of rights in an action entitled, Stephen S. Nisbet, President of the Michigan Constitutional Convention of 1961-1962 v. James M. Hare, Secretary of State. The relief sought was a declaration that the convention has the right to provide for submission of the proposed new constitution to the electors at the general election to be held November 6, 1962. The summons and petition were served on the secretary of state on the same day.

On May 22, having had no response from the attorney general, petitioner filed a motion for the entry of a decree. On May 25, the secretary of state appeared specially by the attorney general and moved to dismiss the petition on the ground that the case did not present an actual controversy. The trial court heard argument on the attorney general's motion on June 1 and on June 6 rendered an opinion denying the motion to dismiss. An order to that effect was entered on June 11.

Instead of proceeding to file an answer, the attorney general then filed an application to the supreme court for leave to appeal. This application was granted by the supreme court and the attorney general, on July 2, filed a claim of appeal.

The attorney general has not yet filed a brief and he states that he does not intend to do so until after August 7.

It is obvious that no judicial determination of the right of the constitutional convention to require submission of the proposed constitution to the electors on November 6 will be made in time to be useful to the convention. Accordingly, the committee recommends:

1) That section 15 [formerly section 16] of the schedule and temporary provisions of the proposed constitution be amended by striking from the first sentence the words "Tuesday after the first Monday of November, 1962" and inserting "first Monday in April, 1963."

2) That the committee be authorized to discontinue the action entitled, Nisbet v. Hare.

Richard C. Van Dusen, chairman.

**MR. VAN DUSEN:** Mr. President, I move the adoption of the report.

**PRESIDENT NISBET:** The question is on the motion of Mr. Van Dusen that the report be adopted. Those in favor will say aye. Opposed, no.

The report is adopted. Mr. Van Dusen.

**MR. VAN DUSEN:** Mr. President, in compliance with our rules, I think it would now be necessary to take a roll call vote on the amendment to the constitution changing the date.

**PRESIDENT NISBET:** Mr. Chase will read the amendment.

**SECRETARY CHASE:** The amendment recommended in the report is as follows:

1. Amend the schedule, section 15 [formerly section 16] (column 2) line 11, after "held on the" by striking out "Tuesday after the first Monday of November, 1962.", and inserting "first Monday in April, 1963."

**PRESIDENT NISBET:** The secretary will call the roll. Those in favor of the amendment will vote aye as your name is called. Those opposed will vote no.

*The roll was called and the delegates voted as follows:*

Yeas—141

Allen	Goebel	Page
Andrus, Miss	Gover	Pellow
Anspach	Greene	Perlich
Austin	Gust	Perras
Baginski	Habermehl	Plank
Balcer	Hanna, W. F.	Pollock
Barthwell	Hannah, J. A.	Powell
Batchelor	Hart, Miss	Prettie
Beaman	Haskill	Pugsley
Bentley	Hatch	Radka

Binkowski	Hatcher, Mrs.
Blandford	Heideman
Bledsoe	Higgs
Bonisteel	Hood
Boothby	Howes
<b>Bowens</b>	Hoxie
Bradley	Hubbs
Brake	Hutchinson
Brown, G. E.	Iverson
Brown, T. S.	Jones
Buback	Judd, Mrs.
Butler, Mrs.	Karn
Conklin, Mrs.	Kelsey
Cudlip	Kirk, S.
Cushman, Mrs.	Knirk, B.
Danhof	Koeze, Mrs.
Dehnke	Krolkowski
Dell	Kuhn
DeVries	Lawrence
Donnelly, Miss	Lebrand
Doty, Dean	Leppien
Doty, Donald	Lesinski
Douglas	Liberato
Downs	Madar
Durst	Mahinske
Elliott, A. G.	Martin
Elliott, Mrs. Daisy	McAllister
Erickson	McCauley
Everett	McGowan, Miss
Farnsworth	McLogan
Faxon	Millard
Figy	Mosier
Finch	Murphy
Follo	Nisbet
Ford	Nord
Gadola	Norris
Garvin	Ostrow

Nays—0

**SECRETARY CHASE:** On the adoption of the amendment, the yeas are 141; the nays are none.

**PRESIDENT NISBET:** The amendment is adopted. The question now is on the final passage of the constitution as amended this morning. Those who are in favor will answer aye as your names are called. Those opposed will answer nay. The secretary will call the roll.

*The roll was called and the delegates voted as follows:*

Yeas—98

Allen	Gover	Powell
Andrus, Miss	Gust	Prettie
Anspach	Habermehl	Pugsley
Balcer	Hanna, W. F.	Radka
Batchelor	Hannah, J. A.	Rajkovich
Beaman	Haskill	Richards, J. B.
Bentley	Hatch	Richards, L. W.
Blandford	Heideman	Romney
Bonisteel	Higgs	Rood
Boothby	Howes	Rush
Brake	Hoxie	Seyferth
Brown, G. E.	Hubbs	Shackleton
Butler, Mrs.	Hutchinson	Shaffer
Conklin, Mrs.	Iverson	Sharpe
Cudlip	Judd, Mrs.	Sleder
Cushman, Mrs.	Karn	Spitler
Danhof	Kirk, S.	Stafseth
Dehnke	Knirk, B.	Staiger
Dell	Koeze, Mrs.	Stamm
DeVries	Kuhn	Sterrett
Donnelly, Miss	Lawrence	Stevens
Doty, Dean	Leppien	Thomson
Doty, Donald	Martin	Tubbs
Durst	McCauley	Turner
Elliott, A. G.	McGowan, Miss	Tweedie
Erickson	McLogan	Upton
Everett	Millard	Van Dusen
Farnsworth	Mosier	Wanger
Figy	Nisbet	White
Finch	Page	Wood

Follo  
Gadola  
Goebel

Perras  
Plank  
Pollock

Woolfenden  
Yeager

#### Nays—43

Austin  
Baginski  
Barthwell  
Binkowski  
Bledsoe  
**Bowens**  
Bradley  
Brown, T. S.  
Buback  
Douglas  
Downs  
Elliott, Mrs. Daisy  
Faxon  
Ford  
Garvin

Greene  
Hart, Miss  
Hatcher, Mrs.  
Hood  
Jones  
Kelsey  
Krolikowski  
Leibrand  
Lesinski  
Liberato  
Madar  
Mahinske  
McAllister  
Murphy

Nord  
Norris  
Ostrow  
Pellow  
Perlich  
Sablich  
Shanahan  
Snyder  
Stopczynski  
Suzore  
Walker  
Wilkowski  
Young  
Youngblood

SECRETARY CHASE: On the adoption of the constitution as amended, the yeas are 98; the nays are 43. (applause)  
PRESIDENT NISBET: The **constitution** is adopted.

*For the constitution as adopted, see below, page 3317.*

Because of the hour, it being almost noon, the Chair recognizes Mr. Van Dusen.

MR. VANDUSEN: Mr. President, I move that the convention now stand in recess until 2:00 p.m.

PRESIDENT NISBET: The question is on the motion of Mr. Van Dusen that we recess until 2:00 p.m. Those in favor will say aye. Opposed, no.

The motion prevails. We are recessed until 2:00 o'clock.

[Whereupon, at 11:50 o'clock a.m., the convention recessed; and, at 2:00 o'clock p.m., reconvened.]

Will the delegates please take their seats. The convention will please come to order.

SECRETARY CHASE: Mr. President, a quorum of the convention is present.

PRESIDENT NISBET: I think we should recognize the fact that many of our employees are voluntarily back with us today, meeting with the delegates. I'm sure all of us are very happy to have them here. It brings about a happy result to see them and I think we ought to give them a good hand. (applause) Mr. Chase has an announcement.

SECRETARY CHASE: There are 3 announcements that possibly should have been made before we recessed for lunch.

First, there is mail for all of the delegates in the mail room downstairs.

Just prior to the May 11 adjournment, several of the delegates took out, on loan, sets of convention slides which have not been returned. Missing from our files are 12 complete sets of slides. Since we frequently have call from other delegates for the use of these slides, we would appreciate their return as soon as possible. Ink White, chairman of the committee on public information.

I am sure the delegates recall the lady on the civic center staff who took such good care of keeping the windows clean and the place well slicked up, who had to go to the hospital for a very critical operation. A number of the delegates contributed to a fund to help her over her financial difficulties. I have the following card:

It is very difficult to express my appreciation to all the wonderful people of con con. Let me say, with my heart, your kindness and generosity will always be remembered.

Sincerely,  
Freda Adams.

PRESIDENT NISBET: Since the adjournment on May 11, we have added 2 new associate members to the delegation: Mrs. Charles Follo and Mrs. Gil Wanger.

I asked Charlie if Mrs. Follo was present so that he might present her, but he said she isn't. We are sorry, Charlie, she couldn't be with us.

Mr. Wanger, is your associate delegate present? Would you present her?

[Whereupon, the delegates accorded Mrs. Wanger a standing ovation.]

At the final session before the long recess the president was authorized to name a reunion committee for the constitutional convention. Accordingly, the **president appoints**, as members of the reunion committee: Mr. Erickson, Mrs. Koeze, Messrs. Jones, Bowens, Brake, Mrs. Conklin, Mr. Dean Doty, Mrs. Daisy Elliott, Messrs. Faxon, Kelsey, Kuhn, Powell, Sharpe, Wanger, White and Norris.

Without objection, the appointments are approved. You will notice that most of these delegates are within the area of Lansing, Detroit or Grand Rapids for their ease in getting together when they have to meet. Mr. Claud Erickson is chairman of the committee.

Returning to the order of business, **approval of address to people**. We will take up the **report of the committee on public information**. Mr. White, chairman.

MR. WHITE: Mr. President, under date of June 26, 1962, each delegate was mailed proof copies of the proposed address to the people. Since that time our committee has received numerous suggestions for corrections, additions, deletions and so on. Our committee has met and gone over these suggestions and they have been, for the most part, agreed to. I might say, parenthetically, the address in its present corrected form represents the writing and editing of upwards of 50 of our delegates.

Under date of July 27, 1962, each of you was mailed a 16 page multilith report which outlined in detail some 108 corrections. This communication also carried the recommendation that we be authorized to correct the text of the constitution as it appears in the address to conform with the style and drafting changes adopted at today's session, and to offer comments accordingly, if necessary. All of this material has been delivered again to each delegate's desk today. Additionally, you have a single white multilith sheet from our committee containing brief addenda to this 16 page report.

It seems to me, Mr. President, the delegates have had ample time to consider these matters, and to expedite our final deliberations, I move that the report of the public information committee, with the recommended addenda, be considered read.

PRESIDENT NISBET: Without objection, it is so ordered.

*Following is the report as submitted and considered read:*

After careful consideration of suggestions from delegates, your committee on public information recommends the adoption of the following changes in the proof copy of the address to the people:

*For document incorporating following changes, see below, page 3355. Page numbers in report refer to document pages.*

1. Amend page 2, second full paragraph, line 3, after "that one" by striking out "must" and inserting "should"; to improve phraseology.

2. Amend page 2, third full paragraph, line 1, by striking out "Ordered by popular vote, its delegates selected by the people on the basis of one from each senatorial and representative district, the Constitutional Convention of 1961-62 met in Lansing on October 3, 1961.", and inserting "The convention was ordered by popular vote in April of 1961. There were 144 delegates, representing Michigan's 34 State Senatorial districts and 110 State Representative seats. They were elected in statewide voting on September 12, 1961, and convened at Lansing on October 3, 1961."; to improve awkward sentence construction and correct error by indicating "seats" rather than representative "districts."

3. Amend page 2, fifth full paragraph, line 2, after "overlapped" by striking out "each other"; to improve phraseology.

4. Amend page 2, fifth full paragraph, line 6, after



**CONSTITUTION  
OF THE  
STATE OF MICHIGAN**

**as finally adopted  
by the Convention  
August 1, 1962**

## PREAMBLE

We, the people of the State of Michigan, grateful to Almighty God for the blessings of freedom, and earnestly desiring to secure these blessings undiminished to ourselves and our posterity, do ordain and establish this constitution.

## ARTICLE I

### Declaration of Rights

Sec. 1. All political power is inherent in the people. Government is instituted for their equal benefit, security and protection.

Sec. 2. No person shall be denied the equal protection of the laws; nor shall any person be denied the enjoyment of his civil or political rights or be discriminated against in the exercise thereof because of religion, race, color or national origin. The legislature shall implement this section by appropriate legislation.

Sec. 3. The people have the right peaceably to assemble, to consult for the common good, to instruct their representatives and to petition the government for redress of grievances.

Sec. 4. Every person shall be at liberty to worship God according to the dictates of his own conscience. No person shall be compelled to attend, or, against his consent, to contribute to the erection or support of any place of religious worship, or to pay tithes, taxes or other rates for the support of any minister of the gospel or teacher of religion. No money shall be appropriated or drawn from the treasury for the benefit of any religious sect or society, theological or religious seminary; nor shall property belonging to the state be appropriated for any such purpose. The civil and political rights, privileges and capacities of no person shall be diminished or enlarged on account of his religious belief.

Sec. 5. Every person may freely speak, write, express and publish his views on all subjects, being responsible for the abuse of such right; and no law shall be enacted to restrain or abridge the liberty of speech or of the press.

Sec. 6. Every person has a right to keep and bear arms for the defense of himself and the state.

Sec. 7. The military shall in all cases and at all times be in strict subordination to the civil power.

Sec. 8. No soldier shall, in time of peace, be quartered in any house without the consent of the owner or occupant, nor in time of war, except in a manner prescribed by law.

Sec. 9. Neither slavery, nor involuntary servitude unless for the punishment of crime, shall ever be tolerated in this state.

Sec. 10. No bill of attainder, ex post facto law or law impairing the obligation of contract shall be enacted.

Sec. 11. The person, houses, papers and possessions of every person shall be secure from unreasonable searches and seizures. No warrant to search any place or to seize any person or things shall issue without describing them, nor without probable cause, supported by oath or affirmation. The provisions of this section shall not be construed to bar from evidence in any criminal proceeding any narcotic drug, firearm, bomb, explosive or any other dangerous weapon, seized by a peace officer outside the curtilage of any dwelling house in this state.

Sec. 12. The privilege of the writ of habeas corpus shall not be suspended unless in case of rebellion or invasion the public safety may require it.

Sec. 13. A suitor in any court of this state has the right to prosecute or defend his suit, either in his own proper person or by an attorney.

Sec. 14. The right of trial by jury shall remain, but shall be waived in all civil cases unless demanded by one of the parties in the manner prescribed by law. In all civil cases tried by 12 jurors a verdict shall be received when 10 jurors agree.

Sec. 15. No person shall be subject for the same offense to be twice put in jeopardy. All persons shall, before conviction, be bailable by sufficient sureties, except for murder and treason when the proof is evident or the presumption great.

Sec. 16. Excessive bail shall not be required; excessive fines shall not be imposed; cruel or unusual punishment shall not be inflicted; nor shall witnesses be unreasonably detained.

Sec. 17. No person shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property, without due process of law. The right of all individuals, firms, corporations and voluntary associations to fair and just treatment in the course of legislative and executive investigations and hearings shall not be infringed.

Sec. 18. No person shall be rendered incompetent to be a witness on account of his opinions on matters of religious belief.

Sec. 19. In all prosecutions for libels the truth may be given in evidence to the jury; and, if it appears to the jury that the matter charged as libelous is true and was published with good motives and for justifiable ends, the accused shall be acquitted.

Sec. 20. In every criminal prosecution, the accused shall have the right to a speedy and public trial by an impartial jury, which may consist of less than 12 jurors in all courts not of record; to be informed of the nature of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; to have the assistance of counsel for his defense; to have an appeal as a matter of right; and in courts of record, when the trial court so orders, to have such reasonable assistance as may be necessary to perfect and prosecute an appeal.

Sec. 21. No person shall be imprisoned for debt arising out of or founded on contract, express or implied, except in cases of fraud or breach of trust.

Sec. 22. Treason against the state shall consist only in levying war against it or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless upon the testimony of two witnesses to the same overt act or on confession in open court.

Sec. 23. The enumeration in this constitution of certain rights shall not be construed to deny or disparage others retained by the people.

## ARTICLE II

### Elections

Sec. 1. Every citizen of the United States who has attained the age of 21 years, who has resided in this state six months, and who meets the requirements of local residence provided by law, shall be an elector and qualified to vote in any election except as otherwise provided in this constitution. The legislature shall define residence for voting purposes.

Sec. 2. The legislature may by law exclude persons from voting because of mental incompetence or commitment to a jail or penal institution.

Sec. 3. For purposes of voting in the election for president and vice-president of the United States only, the legislature may by law establish lesser residence requirements for citizens who have resided in this state for less than six months and may waive residence requirements for former citizens of this state who have removed herefrom. The legislature shall not permit voting by any person who meets the voting residence requirements of the state to which he has removed.

Sec. 4. The legislature shall enact laws to regulate the time, place and manner of all nominations and elections, except as otherwise provided in this constitution or in the constitution and laws of the United States. The legislature shall enact laws to preserve the purity of elections, to preserve the secrecy of the ballot, to guard against abuses of the elective franchise, and to provide for a system of voter registration and absentee voting. No law shall be enacted which permits a candidate in any partisan primary or partisan election to have a ballot designation except when required for identification of candidates for the same office who have the same or similar surnames.

Sec. 5. Except for special elections to fill vacancies, or as otherwise provided in this constitution, all elections for national, state, county and township offices shall be held on the first Tuesday after the first Monday in November in each even-numbered year or on such other date as members of the congress of the United States are regularly elected.

Sec. 6. Whenever any question is required to be submitted by a political subdivision to the electors for the increase of the ad valorem tax rate limitation imposed by Section 6 of Article IX for a period of more than five years, or for the issue of bonds, only electors in, and who have property assessed for any ad valorem taxes in, any part of the district or territory to be affected by the result of such election or electors who are the lawful husbands or wives of such persons shall be entitled to vote thereon. All electors in the district or territory affected may vote on all other questions.

Sec. 7. A board of state canvassers of four members shall be established by law. No candidate for an office to be canvassed nor any inspector of elections shall be eligible to serve as a member of a board of canvassers. A majority of any board of canvassers shall not be composed of members of the same political party.

Sec. 8. Laws shall be enacted to provide for the recall of all elective officers except judges of courts of record upon petition of electors equal in number to 25 percent of the number of persons voting in the last preceding election for the office of governor in the electoral district of the officer sought to be recalled. The sufficiency of any statement of reasons or grounds procedurally required shall be a political rather than a judicial question.

Sec. 9. The people reserve to themselves the power to propose laws and to enact and reject laws, called the initiative, and the power to approve or reject laws enacted by the legislature, called the referendum. The power of initiative extends only to laws which the legislature may enact under this constitution. The power of referendum does not extend to acts making appropriations for state institutions or to meet deficiencies in state funds and must be invoked in the manner prescribed by law within 90 days following the final adjournment of the legislative session at which the law was enacted. To invoke the initiative or referendum, petitions signed by a number of registered electors, not less than eight percent for initiative and five percent for referendum of the total vote cast for all candidates for governor at the last preceding general election at which a governor was elected shall be required.

No law as to which the power of referendum properly has been invoked shall be effective thereafter unless approved by a majority of the electors voting thereon at the next general election.

Any law proposed by initiative petition shall be either enacted or rejected by the legislature without change or amendment within 40 session days from the time such petition is received by the legislature. If any law proposed by such petition shall be enacted by the legislature it shall be subject to referendum, as hereinafter provided.

If the law so proposed is not enacted by the legislature within the 40 days, the state officer authorized by law shall submit such proposed law to the people for approval or rejection at the next general election. The legislature may reject any measure so proposed by initiative petition and propose a different measure upon the same subject by a yea and nay vote upon separate roll calls, and in such event both measures shall be submitted by such state officer to the electors for approval or rejection at the next general election.

Any law submitted to the people by either initiative or referendum petition and approved by a majority of the votes cast thereon at any election shall take effect 10 days after the date of the official declaration of the vote. No law initiated or adopted by the people shall be subject to the veto power of the governor, and no law adopted by the people at the polls under the initiative provisions of this section shall be amended or repealed, except by a vote of the electors unless otherwise provided in the initiative measure or by three-fourths of the members elected to and serving in each house of the legislature. Laws approved by the people under the referendum provision of this section may be amended by the legislature at any subsequent session thereof. If two or more measures approved by the electors at the same election conflict, that receiving the highest affirmative vote shall prevail.

The legislature shall implement the provisions of this section.

### ARTICLE III

#### General Government

Sec. 1. The seat of government shall be at Lansing.

Sec. 2. The powers of government are divided into three branches: legislative, executive and judicial. No person exercising powers of one branch shall exercise powers properly belonging to another branch except as expressly provided in this constitution.

Sec. 3. There shall be a great seal of the State of Michigan and its use shall be provided by law.

Sec. 4. The militia shall be organized, equipped and disciplined as provided by law.

Sec. 5. Subject to provisions of general law, this state or any political subdivision thereof, any governmental authority or any combination thereof may enter into agreements for the performance, financing or execution of their respective functions, with any one or more of the other states, the United States, the Dominion of Canada, or any political subdivision thereof unless otherwise provided in this constitution. Any other provision of this constitution notwithstanding, an officer or employee of the state or of any such unit of government or subdivision or agency thereof may serve on or with any governmental body established for the purposes set forth in this section and shall not be required to relinquish his office or employment by reason of such service. The legislature may impose such restrictions, limitations or conditions on such service as it may deem appropriate.

Sec. 6. The state shall not be a party to, nor be financially interested in, any work of internal improvement, nor engage in carrying on any such work, except for public internal improvements provided by law.

Sec. 7. The common law and the statute laws now in force, not repugnant to this constitution, shall remain in force until they expire by their own limitations, or are changed, amended or repealed.

Sec. 8. Either house of the legislature or the governor may request the opinion of the supreme court on important questions of law upon solemn occasions as to the constitutionality of legislation after it has been enacted into law but before its effective date.

### ARTICLE IV

#### Legislative Branch

Sec. 1. The legislative power of the State of Michigan is vested in a senate and a house of representatives.

Sec. 2. The senate shall consist of 38 members to be elected from single member districts at the same election as the governor for four-year terms concurrent with the term of office of the governor.

In districting the state for the purpose of electing senators after the official publication of the total population count of each federal decennial census, each county shall be assigned apportionment factors equal to the sum of its percentage of the state's population as shown by the last regular federal decennial census computed to the nearest one-one hundredth of one percent multiplied by four and its percentage of the state's land area computed to the nearest one-one hundredth of one percent.

In arranging the state into senatorial districts, the apportionment commission shall be governed by the following rules:



(1) Counties with 13 or more apportionment factors shall be entitled as a class to senators in the proportion that the total apportionment factors of such counties bear to the total apportionment factors of the state computed to the nearest whole number. After each such county has been allocated one senator, the remaining senators to which this class of counties is entitled shall be distributed among such counties by the method of equal proportions applied to the apportionment factors.

(2) Counties having less than 13 apportionment factors shall be entitled as a class to senators in the proportion that the total apportionment factors of such counties bear to the total apportionment factors of the state computed to the nearest whole number. Such counties shall thereafter be arranged into senatorial districts that are compact, convenient, and contiguous by land, as rectangular in shape as possible, and having as nearly as possible 13 apportionment factors, but in no event less than 10 or more than 16. Insofar as possible, existing senatorial districts at the time of reapportionment shall not be altered unless there is a failure to comply with the above standards.

(3) Counties entitled to two or more senators shall be divided into single member districts. The population of such districts shall be as nearly equal as possible but shall not be less than 75 percent nor more than 125 percent of a number determined by dividing the population of the county by the number of senators to which it is entitled. Each such district shall follow incorporated city or township boundary lines to the extent possible and shall be compact, contiguous, and as nearly uniform in shape as possible.

Sec. 3. The house of representatives shall consist of 110 members elected for two-year terms from single member districts apportioned on a basis of population as provided in this article. The districts shall consist of compact and convenient territory contiguous by land.

Each county which has a population of not less than seven-tenths of one percent of the population of the state shall constitute a separate representative area. Each county having less than seven-tenths of one percent of the population of the state shall be combined with another county or counties to form a representative area of not less than seven-tenths of one percent of the population of the state. Any county which is isolated under the initial allocation as provided in this section shall be joined with that contiguous representative area having the smallest percentage of the state's population. Each such representative area shall be entitled initially to one representative.

After the assignment of one representative to each of the representative areas, the remaining house seats shall be apportioned among the representative areas on the basis of population by the method of equal proportions.

Any county comprising a representative area entitled to two or more representatives shall be divided into single member representative districts as follows:

(1) The population of such districts shall be as nearly equal as possible but shall not be less than 75 percent nor more than 125 percent of a number determined by dividing the population of the representative area by the number of representatives to which it is entitled.

(2) Such single member districts shall follow city and township boundaries where applicable and shall be composed of compact and contiguous territory as nearly square in shape as possible.

Any representative area consisting of more than one county, entitled to more than one representative, shall be divided into single member districts as equal as possible in population, adhering to county lines.

Sec. 4. In counties having more than one representative or senatorial district, the territory in the same county annexed to or merged with a city between apportionments shall become a part of a contiguous representative or senatorial district in the city with which it is combined, if provided by ordinance of the city. The district or districts with which the territory shall be combined shall be determined by such ordinance certified to the secretary of state. No such change in the boundaries of a representative or senatorial district shall have the effect of removing a legislator from office during his term.

Sec. 5. Island areas are considered to be contiguous by land to the county of which they are a part.

Sec. 6. A commission on legislative apportionment is hereby established consisting of eight electors, four of whom shall be selected by the state organizations of each of the two political parties whose candidates for governor received the highest vote at the last general election at which a governor was elected preceding each apportionment. If a candidate for governor of a third political party has received at such election more than 25 percent of such gubernatorial vote, the commission shall consist of 12 members, four of whom shall be selected by the state organization of the third political party. One resident of each of the following four regions shall be selected by each political party organization: (1) the upper peninsula; (2) the northern part of the lower peninsula, north of a line drawn along the northern boundaries of the counties of Bay, Midland, Isabella, Mecosta, Newaygo and Oceana; (3) southwestern Michigan, those counties south of region (2) and west of a line drawn along the western boundaries of the counties of Bay, Saginaw, Shiawassee, Ingham, Jackson and Hillsdale; (4) southeastern Michigan, the remaining counties of the state.

No officers or employees of the federal, state or local governments, excepting notaries public and members of the armed forces reserve, shall be eligible for membership on the commission. Members of the commission shall not be eligible for election to the legislature until two years after the apportionment in which they participated becomes effective.

The commission shall be appointed immediately after the adoption of this constitution and whenever apportionment or districting of the legislature is required by the provisions of this constitution. Members of the commission shall hold office until each apportionment or districting plan becomes effective. Vacancies shall be filled in the same manner as for original appointment.

The secretary of state shall be secretary of the commission without vote, and in that capacity shall furnish, under the direction of the commission, all necessary technical services. The commission shall elect its own chairman, shall make its own rules of procedure, and shall receive compensation provided by law. The legislature shall appropriate funds to enable the commission to carry out its activities.

Within 30 days after the adoption of this constitution, and after the official total population count of each federal decennial census of the state and its political subdivisions is available, the secretary of state shall issue a call convening the commission not less than 30 nor more than 45 days thereafter. The commission shall complete its work within 180 days after all necessary census information is available. The commission shall proceed to district and apportion the senate and house of representatives according to the provisions of this constitution. All final decisions shall require the concurrence of a majority of the members of the commission. The commission shall hold public hearings as may be provided by law.

Each final apportionment and districting plan shall be published as provided by law within 30 days from the date of its adoption and shall become law 60 days after

publication. The secretary of state shall keep a public record of all the proceedings of the commission and shall be responsible for the publication and distribution of each plan.

If a majority of the commission cannot agree on a plan, each member of the commission, individually or jointly with other members, may submit a proposed plan to the supreme court. The supreme court shall determine which plan complies most accurately with the constitutional requirements and shall direct that it be adopted by the commission and published as provided in this section.

Upon the application of any elector filed not later than 60 days after final publication of the plan, the supreme court, in the exercise of original jurisdiction, shall direct the secretary of state or the commission to perform their duties, may review any final plan adopted by the commission, and shall remand such plan to the commission for further action if it fails to comply with the requirements of this constitution.

Sec. 7. Each senator and representative must be a citizen of the United States, at least 21 years of age, and an elector of the district he represents. The removal of his domicile from the district shall be deemed a vacation of the office. No person who has been convicted of subversion or who has within the preceding 20 years been convicted of a felony involving a breach of public trust shall be eligible for either house of the legislature.

Sec. 8. No person holding any office, employment or position under the United States or this state or a political subdivision thereof, except notaries public and members of the armed forces reserve, may be a member of either house of the legislature.

Sec. 9. No person elected to the legislature shall receive any civil appointment within this state from the governor, except notaries public, from the legislature, or from any other state authority, during the term for which he is elected.

Sec. 10. No member of the legislature nor any state officer shall be interested directly or indirectly in any contract with the state or any political subdivision thereof which shall cause a substantial conflict of interest. The legislature shall further implement this provision by appropriate legislation.

Sec. 11. Senators and representatives shall be privileged from civil arrest and civil process during sessions of the legislature and for five days next before the commencement and after the termination thereof. They shall not be questioned in any other place for any speech in either house.

Sec. 12. The compensation and expense allowances of the members of the legislature shall be determined by law. Changes in compensation or expense allowances shall become effective only when legislators commence their terms of office after a general election.

Sec. 13. The legislature shall meet at the seat of government on the second Wednesday in January of each year at twelve o'clock noon. Each regular session shall adjourn without day, on a day determined by concurrent resolution, at twelve o'clock noon. Any business, bill or joint resolution pending at the final adjournment of a regular session held in an odd numbered year shall carry over with the same status to the next regular session.

Sec. 14. A majority of the members elected to and serving in each house shall constitute a quorum to do business. A smaller number in each house may adjourn from day to day, and may compel the attendance of absent members in the manner and with penalties as each house may prescribe.

Sec. 15. There shall be a bi-partisan legislative council consisting of legislators appointed in the manner prescribed by law. The legislature shall appropriate funds for the council's operations and provide for its staff which shall maintain bill drafting, research and other services for the members of the legislature. The council shall periodically examine and recommend to the legislature revision of the various laws of the state.

Sec. 16. Each house, except as otherwise provided in this constitution, shall choose its own officers and determine the rules of its proceedings, but shall not adopt any rule that will prevent a majority of the members elected thereto and serving therein from discharging a committee from the further consideration of any measure. Each house shall be the sole judge of the qualifications, elections and returns of its members, and may, with the concurrence of two-thirds of all the members elected thereto and serving therein, expel a member. The reasons for such expulsion shall be entered in the journal, with the votes and names of the members voting upon the question. No member shall be expelled a second time for the same cause.

Sec. 17. Each house of the legislature may establish the committees necessary for the efficient conduct of its business and the legislature may create joint committees. On all actions on bills and resolutions in each committee, names and votes of members shall be recorded. Such vote shall be available for public inspection. Notice of all committee hearings and a clear statement of all subjects to be considered at each hearing shall be published in the journal in advance of the hearing.

Sec. 18. Each house shall keep a journal of its proceedings, and publish the same unless the public security otherwise requires. The record of the vote and name of the members of either house voting on any question shall be entered in the journal at the request of one-fifth of the members present. Any member of either house may dissent from and protest against any act, proceeding or resolution which he deems injurious to any person or the public, and have the reason for his dissent entered in the journal.

Sec. 19. All elections in either house or in joint convention and all votes on appointments submitted to the senate for advice and consent shall be published by vote and name in the journal.

Sec. 20. The doors of each house shall be open unless the public security otherwise requires.

Sec. 21. Neither house shall, without the consent of the other, adjourn for more than two intervening calendar days, nor to any place other than where the legislature may then be in session.

Sec. 22. All legislation shall be by bill and may originate in either house.

Sec. 23. The style of the laws shall be: The People of the State of Michigan enact.

Sec. 24. No law shall embrace more than one object, which shall be expressed in its title. No bill shall be altered or amended on its passage through either house so as to change its original purpose as determined by its total content and not alone by its title.

Sec. 25. No law shall be revised, altered or amended by reference to its title only. The section or sections of the act altered or amended shall be re-enacted and published at length.

Sec. 26. No bill shall be passed or become a law at any regular session of the legislature until it has been printed or reproduced and in the possession of each house for

at least five days. Every bill shall be read three times in each house before the final passage thereof. No bill shall become a law without the concurrence of a majority of the members elected to and serving in each house. On the final passage of bills, the votes and names of the members voting thereon shall be entered in the journal.

Sec. 27. No act shall take effect until the expiration of 90 days from the end of the session at which it was passed, but the legislature may give immediate effect to acts by a two-thirds vote of the members elected to and serving in each house.

Sec. 28. When the legislature is convened on extraordinary occasions in special session no bill shall be passed on any subjects other than those expressly stated in the governor's proclamation or submitted by special message.

Sec. 29. The legislature shall pass no local or special act in any case where a general act can be made applicable, and whether a general act can be made applicable shall be a judicial question. No local or special act shall take effect until approved by two-thirds of the members elected to and serving in each house and by a majority of the electors voting thereon in the district affected. Any act repealing local or special acts shall require only a majority of the members elected to and serving in each house and shall not require submission to the electors of such district.

Sec. 30. The assent of two-thirds of the members elected to and serving in each house of the legislature shall be required for the appropriation of public money or property for local or private purposes.

Sec. 31. The general appropriation bills for the succeeding fiscal period covering items set forth in the budget shall be passed or rejected in either house of the legislature before that house passes any appropriation bill for items not in the budget except bills supplementing appropriations for the current fiscal year's operation. Any bill requiring an appropriation to carry out its purpose shall be considered an appropriation bill. One of the general appropriation bills as passed by the legislature shall contain an itemized statement of estimated revenue by major source in each operating fund for the ensuing fiscal period, the total of which shall not be less than the total of all appropriations made from each fund in the general appropriation bills as passed.

Sec. 32. Every law which imposes, continues or revives a tax shall distinctly state the tax.

Sec. 33. Every bill passed by the legislature shall be presented to the governor before it becomes law, and the governor shall have 14 days measured in hours and minutes from the time of presentation in which to consider it. If he approves, he shall within that time sign and file it with the secretary of state and it shall become law. If he does not approve, and the legislature has within that time finally adjourned the session at which the bill was passed, it shall not become law. If he disapproves, and the legislature continues the session at which the bill was passed, he shall return it within such 14-day period with his objections, to the house in which it originated. That house shall enter such objections in full in its journal and reconsider the bill. If two-thirds of the members elected to and serving in that house pass the bill notwithstanding the objections of the governor, it shall be sent with the objections to the other house for reconsideration. The bill shall become law if passed by two-thirds of the members elected to and serving in that house. The vote of each house shall be entered in the journal with the votes and names of the members voting thereon. If any bill is not returned by the governor within such 14-day period, the legislature continuing in session, it shall become law as if he had signed it.

Sec. 34. Any bill passed by the legislature and approved by the governor, except a bill appropriating money, may provide that it will not become law unless approved by a majority of the electors voting thereon.

Sec. 35. All laws enacted at any session of the legislature shall be published in book form within 60 days after final adjournment of the session, and shall be distributed in the manner provided by law. The prompt publication of judicial decisions shall be provided by law. All laws and judicial decisions shall be free for publication by any person.

Sec. 36. No general revision of the laws shall be made. The legislature may provide for a compilation of the laws in force, arranged without alteration, under appropriate heads and titles.

Sec. 37. The legislature may by concurrent resolution empower a joint committee of the legislature, acting between sessions, to suspend any rule or regulation promulgated by an administrative agency subsequent to the adjournment of the last preceding regular legislative session. Such suspension shall continue no longer than the end of the next regular legislative session.

Sec. 38. The legislature may provide by law the cases in which any office shall be vacant and the manner of filling vacancies where no provision is made in this constitution.

Sec. 39. In order to insure continuity of state and local governmental operations in periods of emergency only, resulting from disasters occurring in this state caused by enemy attack on the United States, the legislature may provide by law for prompt and temporary succession to the powers and duties of public offices, of whatever nature and whether filled by election or appointment, the incumbents of which may become unavailable for carrying on the powers and duties of such offices; and enact other laws necessary and proper for insuring the continuity of governmental operations. Notwithstanding the power conferred by this section, elections shall always be called as soon as possible to fill any vacancies in elective offices temporarily occupied by operation of any legislation enacted pursuant to the provisions of this section.

Sec. 40. The legislature may by law establish a liquor control commission which, subject to statutory limitations, shall exercise complete control of the alcoholic beverage traffic within this state, including the retail sales thereof. The legislature may provide for an excise tax on such sales. Neither the legislature nor the commission may authorize the manufacture or sale of alcoholic beverages in any county in which a majority of the electors voting thereon shall prohibit the same.

Sec. 41. The legislature shall not authorize any lottery nor permit the sale of lottery tickets.

Sec. 42. The legislature may provide for the incorporation of ports and port districts, and confer power and authority upon them to engage in work of internal improvements in connection therewith.

Sec. 43. No general law providing for the incorporation of trust companies or corporations for banking purposes, or regulating the business thereof, shall be enacted, amended or repealed except by a vote of two-thirds of the members elected to and serving in each house.

Sec. 44. The legislature may authorize a trial by a jury of less than 12 jurors in civil cases.

Sec. 45. The legislature may provide for indeterminate sentences as punishment for crime and for the detention and release of persons imprisoned or detained under such sentences.



Sec. 46. No law shall be enacted providing for the penalty of death.

Sec. 47. The legislature may authorize the employment of chaplains in state institutions of detention or confinement.

Sec. 48. The legislature may enact laws providing for the resolution of disputes concerning public employees, except those in the state classified civil service.

Sec. 49. The legislature may enact laws relative to the hours and conditions of employment.

Sec. 50. The legislature may provide safety measures and regulate the use of atomic energy and forms of energy developed in the future, having in view the general welfare of the people of this state.

Sec. 51. The public health and general welfare of the people of the state are hereby declared to be matters of primary public concern. The legislature shall pass suitable laws for the protection and promotion of the public health.

Sec. 52. The conservation and development of the natural resources of the state are hereby declared to be of paramount public concern in the interest of the health, safety and general welfare of the people. The legislature shall provide for the protection of the air, water and other natural resources of the state from pollution, impairment and destruction.

Sec. 53. The legislature by a majority vote of the members elected to and serving in each house, shall appoint an auditor general, who shall be a certified public accountant licensed to practice in this state, to serve for a term of eight years. He shall be ineligible for appointment or election to any other public office in this state from which compensation is derived while serving as auditor general and for two years following the termination of his service. He may be removed for cause at any time by a two-thirds vote of the members elected to and serving in each house. The auditor general shall conduct post audits of financial transactions and accounts of the state and of all branches, departments, offices, boards, commissions, agencies, authorities and institutions of the state established by this constitution or by law, and performance post audits thereof.

The auditor general upon direction by the legislature may employ independent accounting firms or legal counsel and may make investigations pertinent to the conduct of audits. He shall report annually to the legislature and to the governor and at such other times as he deems necessary or as required by the legislature. He shall be assigned no duties other than those specified in this section.

Nothing in this section shall be construed in any way to infringe the responsibility and constitutional authority of the governing boards of the institutions of higher education to be solely responsible for the control and direction of all expenditures from the institutions' funds.

The auditor general, his deputy and one other member of his staff shall be exempt from classified civil service. All other members of his staff shall have classified civil service status.

## ARTICLE V

### Executive Branch

Sec. 1. The executive power is vested in the governor.

Sec. 2. All executive and administrative offices, agencies and instrumentalities of the executive branch of state government and their respective functions, powers and

duties, except for the office of governor and lieutenant governor and the governing bodies of institutions of higher education provided for in this constitution, shall be allocated by law among and within not more than 20 principal departments. They shall be grouped as far as practicable according to major purposes.

Subsequent to the initial allocation, the governor may make changes in the organization of the executive branch or in the assignment of functions among its units which he considers necessary for efficient administration. Where these changes require the force of law, they shall be set forth in executive orders and submitted to the legislature. Thereafter the legislature shall have 60 calendar days of a regular session, or a full regular session if of shorter duration, to disapprove each executive order. Unless disapproved in both houses by a resolution concurred in by a majority of the members elected to and serving in each house, each order shall become effective at a date thereafter to be designated by the governor.

Sec. 3. The head of each principal department shall be a single executive unless otherwise provided in this constitution or by law. The single executives heading principal departments shall include a secretary of state, a state treasurer and an attorney general. When a single executive is the head of a principal department, unless elected or appointed as otherwise provided in this constitution, he shall be appointed by the governor by and with the advice and consent of the senate and he shall serve at the pleasure of the governor.

When a board or commission is at the head of a principal department, unless elected or appointed as otherwise provided in this constitution, the members thereof shall be appointed by the governor by and with the advice and consent of the senate. The term of office and procedure for removal of such members shall be as prescribed in this constitution or by law.

Terms of office of any board or commission created or enlarged after the effective date of this constitution shall not exceed four years except as otherwise authorized in this constitution. The terms of office of existing boards and commissions which are longer than four years shall not be further extended except as provided in this constitution.

Sec. 4. Temporary commissions or agencies for special purposes with a life of no more than two years may be established by law and need not be allocated within a principal department.

Sec. 5. A majority of the members of an appointed examining or licensing board of a profession shall be members of that profession.

Sec. 6. Appointment by and with the advice and consent of the senate when used in this constitution or laws in effect or hereafter enacted means appointment subject to disapproval by a majority vote of the members elected to and serving in the senate if such action is taken within 60 session days after the date of such appointment. Any appointment not disapproved within such period shall stand confirmed.

Sec. 7. Vacancies in any office, appointment to which requires advice and consent of the senate, shall be filled by the governor by and with the advice and consent of the senate. A person whose appointment has been disapproved by the senate shall not be eligible for an interim appointment to the same office.

Sec. 8. Each principal department shall be under the supervision of the governor unless otherwise provided by this constitution. The governor shall take care that the laws be faithfully executed. He shall transact all necessary business with the officers of

government and may require information in writing from all executive and administrative state officers, elective and appointive, upon any subject relating to the duties of their respective offices.

The governor may initiate court proceedings in the name of the state to enforce compliance with any constitutional or legislative mandate, or to restrain violations of any constitutional or legislative power, duty or right by any officer, department or agency of the state or any of its political subdivisions. This authority shall not be construed to authorize court proceedings against the legislature.

Sec. 9. Single executives heading principal departments and the chief executive officers of principal departments headed by boards or commissions shall keep their offices at the seat of government except as otherwise provided by law, superintend them in person and perform duties prescribed by law.

Sec. 10. The governor shall have power and it shall be his duty to inquire into the condition and administration of any public office and the acts of any public officer, elective or appointive. He may remove or suspend from office for gross neglect of duty or for corrupt conduct in office, or for any other misfeasance or malfeasance therein, any elective or appointive state officer, except legislative or judicial, and shall report the reasons for such removal or suspension to the legislature.

Sec. 11. The governor may make a provisional appointment to fill a vacancy occasioned by the suspension of an appointed or elected officer, other than a legislative or judicial officer, until he is reinstated or until the vacancy is filled in the manner prescribed by law or this constitution.

Sec. 12. The governor shall be commander-in-chief of the armed forces and may call them out to execute the laws, suppress insurrection and repel invasion.

Sec. 13. The governor shall issue writs of election to fill vacancies in the senate or house of representatives. Any such election shall be held in a manner prescribed by law.

Sec. 14. The governor shall have power to grant reprieves, commutations and pardons after convictions for all offenses, except cases of impeachment, upon such conditions and limitations as he may direct, subject to procedures and regulations prescribed by law. He shall inform the legislature annually of each reprieve, commutation and pardon granted, stating reasons therefor.

Sec. 15. The governor may convene the legislature on extraordinary occasions.

Sec. 16. The governor may convene the legislature at some other place when the seat of government becomes dangerous from any cause.

Sec. 17. The governor shall communicate by message to the legislature at the beginning of each session and may at other times present to the legislature information as to the affairs of the state and recommend measures he considers necessary or desirable.

Sec. 18. The governor shall submit to the legislature at a time fixed by law, a budget for the ensuing fiscal period setting forth in detail, for all operating funds, the proposed expenditures and estimated revenue of the state. Proposed expenditures from any fund shall not exceed the estimated revenue thereof. On the same date, the governor shall submit to the legislature general appropriation bills to embody the proposed expenditures and any necessary bill or bills to provide new or additional revenues to meet proposed expenditures. The amount of any surplus created or deficit incurred in any fund during the last preceding fiscal period shall be entered as an item in the budget and in one of the appropriation bills. The governor may submit amendments to appropriation bills to be offered in either house during consideration of the bill by that house, and shall submit bills to meet deficiencies in current appropriations.

Sec. 19. The governor may disapprove any distinct item or items appropriating moneys in any appropriation bill. The part or parts approved shall become law, and the item or items disapproved shall be void unless re-passed according to the method prescribed for the passage of other bills over the executive veto.

Sec. 20. No appropriation shall be a mandate to spend. The governor, with the approval of the appropriating committees of the house and senate, shall reduce expenditures authorized by appropriations whenever it appears that actual revenues for a fiscal period will fall below the revenue estimates on which appropriations for that period were based. Reductions in expenditures shall be made in accordance with procedures prescribed by law. The governor may not reduce expenditures of the legislative and judicial branches or from funds constitutionally dedicated for specific purposes.

Sec. 21. The governor, lieutenant governor, secretary of state and attorney general shall be elected for four-year terms at the general election in each alternate even-numbered year.

The lieutenant governor, secretary of state and attorney general shall be nominated by party conventions in a manner prescribed by law. In the general election one vote shall be cast jointly for the candidates for governor and lieutenant governor nominated by the same party.

Vacancies in the office of the secretary of state and attorney general shall be filled by appointment by the governor.

Sec. 22. To be eligible for the office of governor or lieutenant governor a person must have attained the age of 30 years, and have been a registered elector in this state for four years next preceding his election.

Sec. 23. The governor, lieutenant governor, secretary of state and attorney general shall each receive the compensation provided by law in full payment for all services performed and expenses incurred during his term of office. Such compensation shall not be changed during the term of office except as otherwise provided in this constitution.

Sec. 24. An executive residence suitably furnished shall be provided at the seat of government for the use of the governor. He shall receive an allowance for its maintenance as provided by law.

Sec. 25. The lieutenant governor shall be president of the senate, but shall have no vote, unless they be equally divided. He may perform duties requested of him by the governor, but no power vested in the governor shall be delegated.

Sec. 26. In case of the conviction of the governor on impeachment, his removal from office, his resignation or his death, the lieutenant governor, the elected secretary of state, the elected attorney general and such other persons designated by law shall in that order be governor for the remainder of the governor's term.

In case of the death of the governor-elect, the lieutenant governor-elect, the secretary of state-elect, the attorney general-elect and such other persons designated by law shall become governor in that order at the commencement of the governor-elect's term.

If the governor or the person in line of succession to serve as governor is absent from the state, or suffering under an inability, the powers and duties of the office of governor shall devolve in order of precedence until the absence or inability giving rise to the devolution of powers ceases.

The inability of the governor or person acting as governor shall be determined by a majority of the supreme court on joint request of the president pro tempore of the senate and the speaker of the house of representatives. Such determination shall be final

and conclusive. The supreme court shall upon its own initiative determine if and when the inability ceases.

Sec. 27. The legislature shall provide that the salary of any state officer while acting as governor shall be equal to that of the governor.

Sec. 28. There is hereby established a state highway commission, which shall administer the state highway department and have jurisdiction and control over all state trunkline highways and appurtenant facilities, and such other public works of the state, as provided by law.

The state highway commission shall consist of four members, not more than two of whom shall be members of the same political party. They shall be appointed by the governor by and with the advice and consent of the senate for four-year terms, no two of which shall expire in the same year, as provided by law.

The state highway commission shall appoint and may remove a state highway director, who shall be a competent highway engineer and administrator. He shall be the principal executive officer of the state highway department and shall be responsible for executing the policy of the state highway commission.

Sec. 29. There is hereby established a civil rights commission which shall consist of eight persons, not more than four of whom shall be members of the same political party, who shall be appointed by the governor, by and with the advice and consent of the senate, for four-year terms not more than two of which shall expire in the same year. It shall be the duty of the commission in a manner which may be prescribed by law to investigate alleged discrimination against any person because of religion, race, color or national origin in the enjoyment of the civil rights guaranteed by law and by this constitution, and to secure the equal protection of such civil rights without such discrimination. The legislature shall provide an annual appropriation for the effective operation of the commission.

The commission shall have power, in accordance with the provisions of this constitution and of general laws governing administrative agencies, to promulgate rules and regulations for its own procedures, to hold hearings, administer oaths, through court authorization to require the attendance of witnesses and the submission of records, to take testimony, and to issue appropriate orders. The commission shall have other powers provided by law to carry out its purposes. Nothing contained in this section shall be construed to diminish the right of any party to direct and immediate legal or equitable remedies in the courts of this state.

Appeals from final orders of the commission, including cease and desist orders and refusals to issue complaints, shall be tried de novo before the circuit court having jurisdiction provided by law.

## ARTICLE VI

### Judicial Branch

Sec. 1. The judicial power of the state is vested exclusively in one court of justice which shall be divided into one supreme court, one court of appeals, one trial court of general jurisdiction known as the circuit court, one probate court, and courts of limited jurisdiction that the legislature may establish by a two-thirds vote of the members elected to and serving in each house.

Sec. 2. The supreme court shall consist of seven justices elected at non-partisan elections as provided by law. The term of office shall be eight years and not more than

two terms of office shall expire at the same time. Nominations for justices of the supreme court shall be in the manner prescribed by law. Any incumbent justice whose term is to expire may become a candidate for re-election by filing an affidavit of candidacy, in the form and manner prescribed by law, not less than 180 days prior to the expiration of his term.

Sec. 3. One justice of the supreme court shall be selected by the court as its chief justice as provided by rules of the court. He shall perform duties required by the court. The supreme court shall appoint an administrator of the courts and other assistants of the supreme court as may be necessary to aid in the administration of the courts of this state. The administrator shall perform administrative duties assigned by the court.

Sec. 4. The supreme court shall have general superintending control over all courts; power to issue, hear and determine prerogative and remedial writs; and appellate jurisdiction as provided by rules of the supreme court. The supreme court shall not have the power to remove a judge.

Sec. 5. The supreme court shall by general rules establish, modify, amend and simplify the practice and procedure in all courts of this state. The distinctions between law and equity proceedings shall, as far as practicable, be abolished. The office of master in chancery is prohibited.

Sec. 6. Decisions of the supreme court, including all decisions on prerogative writs, shall be in writing and shall contain a concise statement of the facts and reasons for each decision and reasons for each denial of leave to appeal. When a judge dissents in whole or in part he shall give in writing the reasons for his dissent.

Sec. 7. The supreme court may appoint, may remove, and shall have general supervision of its staff. It shall have control of the preparation of its budget recommendations and the expenditure of moneys appropriated for any purpose pertaining to the operation of the court or the performance of activities of its staff except that the salaries of the justices shall be established by law. All fees and perquisites collected by the court staff shall be turned over to the state treasury and credited to the general fund.

Sec. 8. The court of appeals shall consist initially of nine judges who shall be nominated and elected at non-partisan elections from districts drawn on county lines and as nearly as possible of equal population, as provided by law. The supreme court may prescribe by rule that the court of appeals sit in divisions and for the terms of court and the times and places thereof. Each such division shall consist of not fewer than three judges. The number of judges comprising the court of appeals may be increased, and the districts from which they are elected may be changed by law.

Sec. 9. Judges of the court of appeals shall hold office for a term of six years and until their successors are elected and qualified. The terms of office for the judges in each district shall be arranged by law to provide that not all terms will expire at the same time.

Sec. 10. The jurisdiction of the court of appeals shall be provided by law and the practice and procedure therein shall be prescribed by rules of the supreme court.

Sec. 11. The state shall be divided into judicial circuits along county lines in each of which there shall be elected one or more circuit judges as provided by law. Sessions of the circuit court shall be held at least four times in each year in every county organized for judicial purposes. Each circuit judge shall hold court in the county or



counties within the circuit in which he is elected, and in other circuits as may be provided by rules of the supreme court. The number of judges may be changed and circuits may be created, altered and discontinued by law and the number of judges shall be changed and circuits shall be created, altered and discontinued on recommendation of the supreme court to reflect changes in judicial activity. No change in the number of judges or alteration or discontinuance of a circuit shall have the effect of removing a judge from office during his term.

Sec. 12. Circuit judges shall be nominated and elected at non-partisan elections in the circuit in which they reside, and shall hold office for a term of six years and until their successors are elected and qualified. In circuits having more than one circuit judge their terms of office shall be arranged by law to provide that not all terms will expire at the same time.

Sec. 13. The circuit court shall have original jurisdiction in all matters not prohibited by law; appellate jurisdiction from all inferior courts and tribunals except as otherwise provided by law; power to issue, hear and determine prerogative and remedial writs; supervisory and general control over inferior courts and tribunals within their respective jurisdictions in accordance with rules of the supreme court; and jurisdiction of other cases and matters as provided by rules of the supreme court.

Sec. 14. The clerk of each county organized for judicial purposes or other officer performing the duties of such office as provided in a county charter shall be clerk of the circuit court for such county. The judges of the circuit court may fill a vacancy in an elective office of county clerk or prosecuting attorney within their respective jurisdictions.

Sec. 15. In each county organized for judicial purposes there shall be a probate court. The legislature may create or alter probate court districts of more than one county if approved in each affected county by a majority of the electors voting on the question. The legislature may provide for the combination of the office of probate judge with any judicial office of limited jurisdiction within a county with supplemental salary as provided by law. The jurisdiction, powers and duties of the probate court and of the judges thereof shall be provided by law. They shall have original jurisdiction in all cases of juvenile delinquents and dependents, except as otherwise provided by law.

Sec. 16. One or more judges of probate as provided by law shall be nominated and elected at non-partisan elections in the counties or the probate districts in which they reside and shall hold office for terms of six years and until their successors are elected and qualified. In counties or districts with more than one judge the terms of office shall be arranged by law to provide that not all terms will expire at the same time.

Sec. 17. No judge or justice of any court of this state shall be paid from the fees of his office nor shall the amount of his salary be measured by fees, other moneys received or the amount of judicial activity of his office.

Sec. 18. Salaries of justices of the supreme court, of the judges of the court of appeals, of the circuit judges within a circuit, and of the probate judges within a county or district, shall be uniform, and may be increased but shall not be decreased during a term of office except and only to the extent of a general salary reduction in all other branches of government.

Each of the judges of the circuit court shall receive an annual salary as provided by law. In addition to the salary received from the state, each circuit judge may receive from any county in which he regularly holds court an additional salary as determined

from time to time by the board of supervisors of the county. In any county where an additional salary is granted, it shall be paid at the same rate to all circuit judges regularly holding court therein.

Sec. 19. The supreme court, the court of appeals, the circuit court, the probate court and other courts designated as such by the legislature shall be courts of record and each shall have a common seal. Justices and judges of courts of record must be persons who are licensed to practice law in this state. No person shall be elected or appointed to a judicial office after reaching the age of 70 years.

Sec. 20. Whenever a justice or judge removes his domicile beyond the limits of the territory from which he was elected, he shall have vacated his office.

Sec. 21. Any justice or judge of a court of record shall be ineligible to be nominated for or elected to an elective office other than a judicial office during the period of his service and for one year thereafter.

Sec. 22. Any elected judge of the court of appeals, circuit court or probate court may become a candidate in the primary election for the office of which he is the incumbent by filing an affidavit of candidacy in the form and manner prescribed by law.

Sec. 23. A vacancy in the elective office of a judge of any court of record shall be filled at a general or special election as provided by law. The supreme court may authorize persons who have served as judges and who have retired, to perform judicial duties for the limited period of time from the occurrence of the vacancy until the successor is elected and qualified. Such persons shall be ineligible for election to fill the vacancy.

Sec. 24. There shall be printed upon the ballot under the name of each elected incumbent justice or judge who is a candidate for nomination or election to the same office the designation of that office.

Sec. 25. For reasonable cause, which is not sufficient ground for impeachment, the governor shall remove any judge on a concurrent resolution of two-thirds of the members elected to and serving in each house of the legislature. The cause for removal shall be stated at length in the resolution.

Sec. 26. The offices of circuit court commissioner and justice of the peace are abolished at the expiration of five years from the date this constitution becomes effective or may within this period be abolished by law. Their jurisdiction, compensation and powers within this period shall be as provided by law. Within this five-year period, the legislature shall establish a court or courts of limited jurisdiction with powers and jurisdiction defined by law. The location of such court or courts, and the qualifications, tenure, method of election and salary of the judges of such court or courts, and by what governmental units the judges shall be paid, shall be provided by law, subject to the limitations contained in this article.

Statutory courts in existence at the time this constitution becomes effective shall retain their powers and jurisdiction, except as provided by law, until they are abolished by law.

Sec. 27. The supreme court, the court of appeals, the circuit court, or any justices or judges thereof, shall not exercise any power of appointment to public office except as provided in this constitution.

Sec. 28. All final decisions, findings, rulings and orders of any administrative officer or agency existing under the constitution or by law, which are judicial or quasi-judicial and affect private rights or licenses, shall be subject to direct review by the courts as

provided by law. This review shall include, as a minimum, the determination whether such final decisions, findings, rulings and orders are authorized by law; and, in cases in which a hearing is required, whether the same are supported by competent, material and substantial evidence on the whole record. Findings of fact in workmen's compensation proceedings shall be conclusive in the absence of fraud unless otherwise provided by law.

In the absence of fraud, error of law or the adoption of wrong principles, no appeal may be taken to any court from any final agency provided for the administration of property tax laws from any decision relating to valuation or allocation.

Sec. 29. Justices of the supreme court, judges of the court of appeals, circuit judges and other judges as provided by law shall be conservators of the peace within their respective jurisdictions.

## ARTICLE VII

### Local Government

Sec. 1. Each organized county shall be a body corporate with powers and immunities provided by law.

Sec. 2. Any county may frame, adopt, amend or repeal a county charter in a manner and with powers and limitations to be provided by general law, which shall among other things provide for the election of a charter commission. The law may permit the organization of county government in form different from that set forth in this constitution and shall limit the rate of ad valorem property taxation for county purposes, and restrict the powers of charter counties to borrow money and contract debts. Each charter county is hereby granted power to levy other taxes for county purposes subject to limitations and prohibitions set forth in this constitution or law. Subject to law, a county charter may authorize the county through its regularly constituted authority to adopt resolutions and ordinances relating to its concerns.

The board of supervisors by a majority vote of its members may, and upon petition of five percent of the electors shall, place upon the ballot the question of electing a commission to frame a charter.

No county charter shall be adopted, amended or repealed until approved by a majority of electors voting on the question.

Sec. 3. No organized county shall be reduced by the organization of new counties to less than 16 townships as surveyed by the United States, unless approved in the manner prescribed by law by a majority of electors voting thereon in each county to be affected.

Sec. 4. There shall be elected for four-year terms in each organized county a sheriff, a county clerk, a county treasurer, a register of deeds and a prosecuting attorney, whose duties and powers shall be provided by law. The board of supervisors in any county may combine the offices of county clerk and register of deeds in one office or separate the same at pleasure.

Sec. 5. The sheriff, county clerk, county treasurer and register of deeds shall hold their principal offices at the county seat.

Sec. 6. The sheriff may be required by law to renew his security periodically and in default of giving such security, his office shall be vacant. The county shall never be responsible for his acts, except that the board of supervisors may protect him against

claims by prisoners for unintentional injuries received while in his custody. He shall not hold any other office except in civil defense.

Sec. 7. A board of supervisors shall be established in each organized county consisting of one member from each organized township and such representation from cities as provided by law.

Sec. 8. Boards of supervisors shall have legislative, administrative and such other powers and duties as provided by law.

Sec. 9. Boards of supervisors shall have exclusive power to fix the compensation of county officers not otherwise provided by law.

Sec. 10. A county seat once established shall not be removed until the place to which it is proposed to be moved shall be designated by two-thirds of the members of the board of supervisors and a majority of the electors voting thereon shall have approved the proposed location in the manner prescribed by law.

Sec. 11. No county shall incur any indebtedness which shall increase its total debt beyond 10 percent of its assessed valuation.

Sec. 12. A navigable stream shall not be bridged or dammed without permission granted by the board of supervisors of the county as provided by law, which permission shall be subject to such reasonable compensation and other conditions as may seem best suited to safeguard the rights and interests of the county and political subdivisions therein.

Sec. 13. Two or more contiguous counties may combine into a single county if approved in each affected county by a majority of the electors voting on the question.

Sec. 14. The board of supervisors of each organized county may organize and consolidate townships under restrictions and limitations provided by law.

Sec. 15. Any county, when authorized by its board of supervisors shall have the authority to enter or to intervene in any action or certificate proceeding involving the services, charges or rates of any privately owned public utility furnishing services or commodities to rate payers within the county.

Sec. 16. The legislature may provide for the laying out, construction, improvement and maintenance of highways, bridges, culverts and airports by the state and by the counties and townships thereof; and may authorize counties to take charge and control of any highway within their limits for such purposes. The legislature may provide the powers and duties of counties in relation to highways, bridges, culverts and airports; may provide for county road commissioners to be appointed or elected, with powers and duties provided by law. The ad valorem property tax imposed for road purposes by any county shall not exceed in any year one-half of one percent of the assessed valuation for the preceding year.

Sec. 17. Each organized township shall be a body corporate with powers and immunities provided by law.

Sec. 18. In each organized township there shall be elected for terms of not less than two nor more than four years as prescribed by law a supervisor, a clerk, a treasurer, and not to exceed four trustees, whose legislative and administrative powers and duties shall be provided by law.

Sec. 19. No organized township shall grant any public utility franchise which is not subject to revocation at the will of the township, unless the proposition shall first have been approved by a majority of the electors of such township voting thereon at a regular or special election.

Sec. 20. The legislature shall provide by law for the dissolution of township government whenever all the territory of an organized township is included within the boundaries of a village or villages notwithstanding that a village may include territory within another organized township and provide by law for the classification of such village or villages as cities.

Sec. 21. The legislature shall provide by general laws for the incorporation of cities and villages. Such laws shall limit their rate of ad valorem property taxation for municipal purposes, and restrict the powers of cities and villages to borrow money and contract debts. Each city and village is granted power to levy other taxes for public purposes, subject to limitations and prohibitions provided by this constitution or by law.

Sec. 22. Under general laws the electors of each city and village shall have the power and authority to frame, adopt and amend its charter, and to amend an existing charter of the city or village heretofore granted or enacted by the legislature for the government of the city or village. Each such city and village shall have power to adopt resolutions and ordinances relating to its municipal concerns, property and government, subject to the constitution and law. No enumeration of powers granted to cities and villages in this constitution shall limit or restrict the general grant of authority conferred by this section.

Sec. 23. Any city or village may acquire, own, establish and maintain, within or without its corporate limits, parks, boulevards, cemeteries, hospitals and all works which involve the public health or safety.

Sec. 24. Subject to this constitution, any city or village may acquire, own or operate, within or without its corporate limits, public service facilities for supplying water, light, heat, power, sewage disposal and transportation to the municipality and the inhabitants thereof.

Any city or village may sell and deliver heat, power or light without its corporate limits in an amount not exceeding 25 percent of that furnished by it within the corporate limits, except as greater amounts may be permitted by law; may sell and deliver water and provide sewage disposal services outside of its corporate limits in such amount as may be determined by the legislative body of the city or village; and may operate transportation lines outside the municipality within such limits as may be prescribed by law.

Sec. 25. No city or village shall acquire any public utility furnishing light, heat or power, or grant any public utility franchise which is not subject to revocation at the will of the city or village, unless the proposition shall first have been approved by three-fifths of the electors voting thereon. No city or village may sell any public utility unless the proposition shall first have been approved by a majority of the electors voting thereon, or a greater number if the charter shall so provide.

Sec. 26. Except as otherwise provided in this constitution, no city or village shall have the power to loan its credit for any private purpose or, except as provided by law, for any public purpose.

Sec. 27. Notwithstanding any other provision of this constitution the legislature may establish in metropolitan areas additional forms of government or authorities with powers, duties and jurisdictions as the legislature shall provide. Wherever possible, such additional forms of government or authorities shall be designed to perform multi-purpose functions rather than a single function.

Sec. 28. The legislature by general law shall authorize two or more counties, townships, cities, villages or districts, or any combination thereof among other things to:

enter into contractual undertakings or agreements with one another or with the state or with any combination thereof for the joint administration of any of the functions or powers which each would have the power to perform separately; share the costs and responsibilities of functions and services with one another or with the state or with any combination thereof which each would have the power to perform separately; transfer functions or responsibilities to one another or any combination thereof upon the consent of each unit involved; cooperate with one another and with state government; lend their credit to one another or any combination thereof as provided by law in connection with any authorized publicly owned undertaking.

Any other provision of this constitution notwithstanding, an officer or employee of the state or any such unit of government or subdivision or agency thereof, except members of the legislature, may serve on or with any governmental body established for the purposes set forth in this section and shall not be required to relinquish his office or employment by reason of such service.

Sec. 29. No person, partnership, association or corporation, public or private, operating a public utility shall have the right to the use of the highways, streets, alleys or other public places of any county, township, city or village for wires, poles, pipes, tracks, conduits or other utility facilities, without the consent of the duly constituted authority of the county, township, city or village; or to transact local business therein without first obtaining a franchise from the township, city or village. Except as otherwise provided in this constitution the right of all counties, townships, cities and villages to the reasonable control of their highways, streets, alleys and public places is hereby reserved to such local units of government.

Sec. 30. No franchise or license shall be granted by any township, city or village for a period longer than 30 years.

Sec. 31. The legislature shall not vacate or alter any road, street, alley or public place under the jurisdiction of any county, township, city or village.

Sec. 32. Any county, township, city, village, authority or school district empowered by the legislature or by this constitution to prepare budgets of estimated expenditures and revenues shall adopt such budgets only after a public hearing in a manner prescribed by law.

Sec. 33. Any elected officer of a political subdivision may be removed from office in the manner and for the causes provided by law.

Sec. 34. The provisions of this constitution and law concerning counties, townships, cities and villages shall be liberally construed in their favor. Powers granted to counties and townships by this constitution and by law shall include those fairly implied and not prohibited by this constitution.

## ARTICLE VIII

### Education

Sec. 1. Religion, morality and knowledge being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged.

Sec. 2. The legislature shall maintain and support a system of free public elementary and secondary schools as defined by law. Every school district shall provide for the education of its pupils without discrimination as to religion, creed, race, color or national origin.



Sec. 3. Leadership and general supervision over all public education, including adult education and instructional programs in state institutions, except as to institutions of higher education granting baccalaureate degrees, is vested in a state board of education. It shall serve as the general planning and coordinating body for all public education, including higher education, and shall advise the legislature as to the financial requirements in connection therewith.

The state board of education shall appoint a superintendent of public instruction whose term of office shall be determined by the board. He shall be the chairman of the board without the right to vote, and shall be responsible for the execution of its policies. He shall be the principal executive officer of a state department of education which shall have powers and duties provided by law.

The state board of education shall consist of eight members who shall be nominated by party conventions and elected at large for terms of eight years as prescribed by law. The governor shall fill any vacancy by appointment for the unexpired term. The governor shall be ex-officio a member of the state board of education without the right to vote.

The power of the boards of institutions of higher education provided in this constitution to supervise their respective institutions and control and direct the expenditure of the institutions' funds shall not be limited by this section.

Sec. 4. The legislature shall appropriate moneys to maintain the University of Michigan, Michigan State University, Wayne State University, Eastern Michigan University, Michigan College of Science and Technology, Central Michigan University, Northern Michigan University, Western Michigan University, Ferris Institute, Grand Valley State College, by whatever names such institutions may hereafter be known, and other institutions of higher education established by law. The legislature shall be given an annual accounting of all income and expenditures by each of these educational institutions. Formal sessions of governing boards of such institutions shall be open to the public.

Sec. 5. The regents of the University of Michigan and their successors in office shall constitute a body corporate known as the Regents of the University of Michigan; the trustees of Michigan State University and their successors in office shall constitute a body corporate known as the Board of Trustees of Michigan State University; the governors of Wayne State University and their successors in office shall constitute a body corporate known as the Board of Governors of Wayne State University. Each board shall have general supervision of its institution and the control and direction of all expenditures from the institution's funds. Each board shall, as often as necessary, elect a president of the institution under its supervision. He shall be the principal executive officer of the institution, be ex-officio a member of the board without the right to vote and preside at meetings of the board. The board of each institution shall consist of eight members who shall hold office for terms of eight years and who shall be elected as provided by law. The governor shall fill board vacancies by appointment. Each appointee shall hold office until a successor has been nominated and elected as provided by law.

Sec. 6. Other institutions of higher education established by law having authority to grant baccalaureate degrees shall each be governed by a board of control which shall be a body corporate. The board shall have general supervision of the institution and the control and direction of all expenditures from the institution's funds. It shall, as often as necessary, elect a president of the institution under its supervision.

He shall be the principal executive officer of the institution and be ex-officio a member of the board without the right to vote. The board may elect one of its members or may designate the president, to preside at board meetings. Each board of control shall consist of eight members who shall hold office for terms of eight years, not more than two of which shall expire in the same year, and who shall be appointed by the governor by and with the advice and consent of the senate. Vacancies shall be filled in like manner.

Sec. 7. The legislature shall provide by law for the establishment and financial support of public community and junior colleges which shall be supervised and controlled by locally elected boards. The legislature shall provide by law for a state board for public community and junior colleges which shall advise the state board of education concerning general supervision and planning for such colleges and requests for annual appropriations for their support. The board shall consist of eight members who shall hold office for terms of eight years, not more than two of which shall expire in the same year, and who shall be appointed by the state board of education. Vacancies shall be filled in like manner. The superintendent of public instruction shall be ex-officio a member of this board without the right to vote.

Sec. 8. Institutions, programs and services for the care, treatment, education or rehabilitation of those inhabitants who are physically, mentally or otherwise seriously handicapped shall always be fostered and supported.

Sec. 9. The legislature shall provide by law for the establishment and support of public libraries which shall be available to all residents of the state under regulations adopted by the governing bodies thereof. All fines assessed and collected in the several counties, townships and cities for any breach of the penal laws shall be exclusively applied to the support of such public libraries, and county law libraries as provided by law.

## ARTICLE IX

### Finance and Taxation

Sec. 1. The legislature shall impose taxes sufficient with other resources to pay the expenses of state government.

Sec. 2. The power of taxation shall never be surrendered, suspended or contracted away.

Sec. 3. The legislature shall provide for the uniform general ad valorem taxation of real and tangible personal property not exempt by law. The legislature shall provide for the determination of true cash value of such property; the proportion of true cash value at which such property shall be uniformly assessed, which shall not, after January 1, 1966, exceed 50 percent; and for a system of equalization of assessments. The legislature may provide for alternative means of taxation of designated real and tangible personal property in lieu of general ad valorem taxation. Every tax other than the general ad valorem property tax shall be uniform upon the class or classes on which it operates.

Sec. 4. Property owned and occupied by non-profit religious or educational organizations and used exclusively for religious or educational purposes, as defined by law, shall be exempt from real and personal property taxes.

Sec. 5. The legislature shall provide for the assessment by the state of the property of those public service businesses assessed by the state at the date this constitution becomes effective, and of other property as designated by the legislature,

and for the imposition and collection of taxes thereon. Property assessed by the state shall be assessed at the same proportion of its true cash value as the legislature shall specify for property subject to general ad valorem taxation. The rate of taxation on such property shall be the average rate levied upon other property in this state under the general ad valorem tax law, or, if the legislature provides, the rate of tax applicable to the property of each business enterprise assessed by the state shall be the average rate of ad valorem taxation levied upon other property in all counties in which any of such property is situated.

Sec. 6. Except as otherwise provided in this constitution, the total amount of general ad valorem taxes imposed upon real and tangible personal property for all purposes in any one year shall not exceed 15 mills on each dollar of the assessed valuation of property as finally equalized. Under procedures provided by law, which shall guarantee the right of initiative, separate tax limitations for any county and for the townships and for school districts therein, the aggregate of which shall not exceed 18 mills on each dollar of such valuation, may be adopted and thereafter altered by the vote of a majority of the qualified electors of such county voting thereon, in lieu of the limitation hereinbefore established. These limitations may be increased to an aggregate of not to exceed 50 mills on each dollar of valuation, for a period of not to exceed 20 years at any one time, if approved by a majority of the electors, qualified under Section 6 of Article II of this constitution, voting on the question.

The foregoing limitations shall not apply to taxes imposed for the payment of principal and interest on bonds or other evidences of indebtedness or for the payment of assessments or contract obligations in anticipation of which bonds are issued, which taxes may be imposed without limitation as to rate or amount; or to taxes imposed for any other purpose by any city, village, charter county, charter township, charter authority or other authority, the tax limitations of which are provided by charter or by general law.

In any school district which extends into two or more counties, property taxes at the highest rate available in the county which contains the greatest part of the area of the district may be imposed and collected for school purposes throughout the district.

Sec. 7. No income tax graduated as to rate or base shall be imposed by the state or any of its subdivisions.

Sec. 8. The legislature shall not impose a sales tax on retailers at a rate of more than four percent of their gross taxable sales of tangible personal property.

Sec. 9. All specific taxes, except general sales and use taxes and regulatory fees, imposed directly or indirectly on fuels sold or used to propel motor vehicles upon highways and on registered motor vehicles shall, after the payment of necessary collection expenses, be used exclusively for highway purposes as defined by law.

Sec. 10. One-eighth of all taxes imposed on retailers on taxable sales at retail of tangible personal property shall be used exclusively for assistance to townships, cities and villages, on a population basis as provided by law. In determining population the legislature may exclude any portion of the total number of persons who are wards, patients or convicts in any tax supported institution.

Sec. 11. There shall be established a state school aid fund which shall be used exclusively for aid to school districts, higher education and school employees' retirement systems, as provided by law. One-half of all taxes imposed on retailers on taxable sales at retail of tangible personal property, and other tax revenues provided by law, shall

be dedicated to this fund. Payments from this fund shall be made in full on a scheduled basis, as provided by law.

Sec. 12. No evidence of state indebtedness shall be issued except for debts authorized pursuant to this constitution.

Sec. 13. Public bodies corporate shall have power to borrow money and to issue their securities evidencing debt, subject to this constitution and law.

Sec. 14. To meet obligations incurred pursuant to appropriations for any fiscal year, the legislature may by law authorize the state to issue its full faith and credit notes in which case it shall pledge undedicated revenues to be received within the same fiscal year for the repayment thereof. Such indebtedness in any fiscal year shall not exceed 15 percent of undedicated revenues received by the state during the preceding fiscal year and such debts shall be repaid at the time the revenues so pledged are received, but not later than the end of the same fiscal year.

Sec. 15. The state may borrow money for specific purposes in amounts as may be provided by acts of the legislature adopted by a vote of two-thirds of the members elected to and serving in each house, and approved by a majority of the electors voting thereon at any general election. The question submitted to the electors shall state the amount to be borrowed, the specific purpose to which the funds shall be devoted, and the method of repayment.

Sec. 16. The state, in addition to any other borrowing power, may borrow from time to time such amounts as shall be required, pledge its faith and credit and issue its notes or bonds therefor, for the purpose of making loans to school districts as provided in this section.

If the minimum amount which would otherwise be necessary for a school district to levy in any year to pay principal and interest on its qualified bonds, including any necessary allowances for estimated tax delinquencies, exceeds 13 mills on each dollar of its assessed valuation as finally equalized, or such lower millage as the legislature may prescribe, then the school district may elect to borrow all or any part of the excess from the state. In that event the state shall lend the excess amount to the school district for the payment of principal and interest. If for any reason any school district will be or is unable to pay the principal and interest on its qualified bonds when due, then the school district shall borrow and the state shall lend to it an amount sufficient to enable the school district to make the payment.

The term "qualified bonds" means general obligation bonds of school districts issued for capital expenditures, including refunding bonds, issued prior to May 4, 1955, or issued thereafter and qualified as provided by law pursuant to Section 27 or Section 28 of Article X of the Constitution of 1908 or pursuant to this section.

After a school district has received loans from the state, each year thereafter it shall levy for debt service, exclusive of levies for nonqualified bonds, not less than 13 mills or such lower millage as the legislature may prescribe, until the amount loaned has been repaid, and any tax collections therefrom in any year over and above the minimum requirements for principal and interest on qualified bonds shall be used toward the repayment of state loans. In any year when such levy would produce an amount in excess of the requirements and the amount due to the state, the levy may be reduced by the amount of the excess.

Subject to the foregoing provisions, the legislature shall have the power to prescribe and to limit the procedure, terms and conditions for the qualification of bonds, for obtaining and making state loans, and for the repayment of loans.

The power to tax for the payment of principal and interest on bonds hereafter issued which are the general obligations of any school district, including refunding bonds, and for repayment of any state loans made to school districts, shall be without limitation as to rate or amount.

All rights acquired under Sections 27 and 28 of Article X of the Constitution of 1908, by holders of bonds heretofore issued, and all obligations assumed by the state or any school district under these sections, shall remain unimpaired.

Sec. 17. No money shall be paid out of the state treasury except in pursuance of appropriations made by law.

Sec. 18. The credit of the state shall not be granted to, nor in aid of any person, association or corporation, public or private, except as authorized in this constitution.

This section shall not be construed to prohibit the investment of public funds until needed for current requirements or the investment of funds accumulated to provide retirement or pension benefits for public officials and employees, as provided by law.

Sec. 19. The state shall not subscribe to, nor be interested in the stock of any company, association or corporation, except that funds accumulated to provide retirement or pension benefits for public officials and employees may be invested as provided by law; and endowment funds created for charitable or educational purposes may be invested as provided by law governing the investment of funds held in trust by trustees.

Sec. 20. No state money shall be deposited in banks other than those organized under the national or state banking laws. No state money shall be deposited in any bank in excess of 50 percent of the capital and surplus of such bank. Any bank receiving deposits of state money shall show the amount of state money so deposited as a separate item in all published statements.

Sec. 21. The legislature shall provide by law for the annual accounting for all public moneys, state and local, and may provide by law for interim accounting.

The legislature shall provide by law for the maintenance of uniform accounting systems by units of local government and the auditing of county accounts by competent state authority and other units of government as provided by law.

Sec. 22. Procedures for the examination and adjustment of claims against the state shall be prescribed by law.

Sec. 23. All financial records, accountings, audit reports and other reports of public moneys shall be public records and open to inspection. A statement of all revenues and expenditures of public moneys shall be published and distributed annually, as provided by law.

Sec. 24. 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.

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

## ARTICLE X

### Property

Sec. 1. The disabilities of coverture as to property are abolished. The real and personal estate of every woman acquired before marriage and all real and personal

property to which she may afterwards become entitled shall be and remain the estate and property of such woman, and shall not be liable for the debts, obligations or engagements of her husband, and may be dealt with and disposed of by her as if she were unmarried. Dower may be relinquished or conveyed as provided by law.

Sec. 2. Private property shall not be taken for public use without just compensation therefor being first made or secured in a manner prescribed by law. Compensation shall be determined in proceedings in a court of record.

Sec. 3. A homestead in the amount of not less than \$3,500 and personal property of every resident of this state in the amount of not less than \$750, as defined by law, shall be exempt from forced sale on execution or other process of any court. Such exemptions shall not extend to any lien thereon excluded from exemption by law.

Sec. 4. Procedures relating to escheats and to the custody and disposition of escheated property shall be prescribed by law.

Sec. 5. The legislature shall have general supervisory jurisdiction over all state owned lands useful for forest preserves, game areas and recreational purposes; shall require annual reports as to such lands from all departments having supervision or control thereof; and shall by general law provide for the sale, lease or other disposition of such lands.

The legislature by an act adopted by two-thirds of the members elected to and serving in each house may designate any part of such lands as a state land reserve. No lands in the state land reserve may be removed from the reserve, sold, leased or otherwise disposed of except by an act of the legislature.

Sec. 6. Aliens who are residents of this state shall enjoy the same rights and privileges in property as citizens of this state.

## ARTICLE XI

### Public Officers and Employment

Sec. 1. All officers, legislative, executive and judicial, before entering upon the duties of their respective offices, shall take and subscribe the following oath or affirmation: I do solemnly swear (or affirm) that I will support the Constitution of the United States and the constitution of this state, and that I will faithfully discharge the duties of the office of ..... according to the best of my ability. No other oath, affirmation, or any religious test shall be required as a qualification for any office or public trust.

Sec. 2. The terms of office of elective state officers, members of the legislature and justices and judges of courts of record shall begin at twelve o'clock noon on the first day of January next succeeding their election, except as otherwise provided in this constitution. The terms of office of county officers shall begin on the first day of January next succeeding their election, except as otherwise provided by law.

Sec. 3. Neither the legislature nor any political subdivision of this state shall grant or authorize extra compensation to any public officer, agent or contractor after the service has been rendered or the contract entered into.

Sec. 4. No person having custody or control of public moneys shall be a member of the legislature, or be eligible to any office of trust or profit under this state, until he shall have made an accounting, as provided by law, of all sums for which he may be liable.



Sec. 5. The classified state civil service shall consist of all positions in the state service except those filled by popular election, heads of principal departments, members of boards and commissions, the principal executive officer of boards and commissions heading principal departments, employees of courts of record, employees of the legislature, employees of the state institutions of higher education, all persons in the armed forces of the state, eight exempt positions in the office of the governor, and within each principal department, when requested by the department head, two other exempt positions, one of which shall be policy-making. The civil service commission may exempt three additional positions of a policy-making nature within each principal department.

The civil service commission shall be non-salaried and shall consist of four persons, not more than two of whom shall be members of the same political party, appointed by the governor for terms of eight years, no two of which shall expire in the same year.

The administration of the commission's powers shall be vested in a state personnel director who shall be a member of the classified service and who shall be responsible to and selected by the commission after open competitive examination.

The commission shall classify all positions in the classified service according to their respective duties and responsibilities, fix rates of compensation for all classes of positions, approve or disapprove disbursements for all personal services, determine by competitive examination and performance exclusively on the basis of merit, efficiency and fitness the qualifications of all candidates for positions in the classified service, make rules and regulations covering all personnel transactions, and regulate all conditions of employment in the classified service.

No person shall be appointed to or promoted in the classified service who has not been certified by the commission as qualified for such appointment or promotion. No appointments, promotions, demotions or removals in the classified service shall be made for religious, racial or partisan considerations.

Increases in rates of compensation authorized by the commission may be effective only at the start of a fiscal year and shall require prior notice to the governor, who shall transmit such increases to the legislature as part of his budget. The legislature may, by a majority vote of the members elected to and serving in each house, waive the notice and permit increases in rates of compensation to be effective at a time other than the start of a fiscal year. Within 60 calendar days following such transmission, the legislature may, by a two-thirds vote of the members elected to and serving in each house, reject or reduce increases in rates of compensation authorized by the commission. Any reduction ordered by the legislature shall apply uniformly to all classes of employees affected by the increases and shall not adjust pay differentials already established by the civil service commission. The legislature may not reduce rates of compensation below those in effect at the time of the transmission of increases authorized by the commission.

The appointing authorities may create or abolish positions for reasons of administrative efficiency without the approval of the commission. Positions shall not be created nor abolished except for reasons of administrative efficiency. Any employee considering himself aggrieved by the abolition or creation of a position shall have a right of appeal to the commission through established grievance procedures.

The civil service commission shall recommend to the governor and to the legislature rates of compensation for all appointed positions within the executive department not a part of the classified service.

To enable the commission to exercise its powers, the legislature shall appropriate to the commission for the ensuing fiscal year a sum not less than one percent of the aggregate payroll of the classified service for the preceding fiscal year, as certified by the commission. Within six months after the conclusion of each fiscal year the commission shall return to the state treasury all moneys unexpended for that fiscal year.

The commission shall furnish reports of expenditures, at least annually, to the governor and the legislature and shall be subject to annual audit as provided by law.

No payment for personal services shall be made or authorized until the provisions of this constitution pertaining to civil service have been complied with in every particular. Violation of any of the provisions hereof may be restrained or observance compelled by injunctive or mandamus proceedings brought by any citizen of the state.

Sec. 6. By ordinance or resolution of its governing body which shall not take effect until approved by a majority of the electors voting thereon, unless otherwise provided by charter, each county, township, city, village, school district and other governmental unit or authority may establish, modify or discontinue a merit system for its employees other than teachers under contract or tenure. The state civil service commission may on request furnish technical services to any such unit on a reimbursable basis.

Sec. 7. The house of representatives shall have the sole power of impeaching civil officers for corrupt conduct in office or for crimes or misdemeanors, but a majority of the members elected thereto and serving therein shall be necessary to direct an impeachment.

When an impeachment is directed, the house of representatives shall elect three of its members to prosecute the impeachment.

Every impeachment shall be tried by the senate immediately after the final adjournment of the legislature. The senators shall take an oath or affirmation truly and impartially to try and determine the impeachment according to the evidence. When the governor or lieutenant governor is tried, the chief justice of the supreme court shall preside.

No person shall be convicted without the concurrence of two-thirds of the senators elected and serving. Judgment in case of conviction shall not extend further than removal from office, but the person convicted shall be liable to punishment according to law.

No judicial officer shall exercise any of the functions of his office after an impeachment is directed until he is acquitted.

## ARTICLE XII

### Amendment and Revision

Sec. 1. Amendments to this constitution may be proposed in the senate or house of representatives. Proposed amendments agreed to by two-thirds of the members elected to and serving in each house on a vote with the names and vote of those voting entered in the respective journals shall be submitted, not less than 60 days thereafter, to the electors at the next general election or special election as the legislature shall direct. If a majority of electors voting on a proposed amendment approve the same, it shall become part of the constitution and shall abrogate or amend existing provisions of the constitution at the end of 45 days after the date of the election at which it was approved.

Sec. 2. Amendments may be proposed to this constitution by petition of the registered electors of this state. Every petition shall include the full text of the proposed amendment, and be signed by registered electors of the state equal in number to at least 10 percent of the total vote cast for all candidates for governor at the last preceding general election at which a governor was elected. Such petitions shall be filed with the person authorized by law to receive the same at least 120 days before the election at which the proposed amendment is to be voted upon. Any such petition shall be in the form, and shall be signed and circulated in such manner, as prescribed by law. The person authorized by law to receive such petition shall upon its receipt determine, as provided by law, the validity and sufficiency of the signatures on the petition, and make an official announcement thereof at least 60 days prior to the election at which the proposed amendment is to be voted upon.

Any amendment proposed by such petition shall be submitted, not less than 120 days after it was filed, to the electors at the next general election. Such proposed amendment, existing provisions of the constitution which would be altered or abrogated thereby, and the question as it shall appear on the ballot shall be published in full as provided by law. Copies of such publication shall be posted in each polling place and furnished to news media as provided by law.

The ballot to be used in such election shall contain a statement of the purpose of the proposed amendment, expressed in not more than 100 words, exclusive of caption. Such statement of purpose and caption shall be prepared by the person authorized by law, and shall consist of a true and impartial statement of the purpose of the amendment in such language as shall create no prejudice for or against the proposed amendment.

If the proposed amendment is approved by a majority of the electors voting on the question, it shall become part of the constitution, and shall abrogate or amend existing provisions of the constitution at the end of 45 days after the date of the election at which it was approved. If two or more amendments approved by the electors at the same election conflict, that amendment receiving the highest affirmative vote shall prevail.

Sec. 3. At the general election to be held in the year 1978, and in each 16th year thereafter and at such times as may be provided by law, the question of a general revision of the constitution shall be submitted to the electors of the state. If a majority of the electors voting on the question decide in favor of a convention for such purpose, at an election to be held not later than six months after the proposal was certified as approved, the electors of each representative district as then organized shall elect one delegate and the electors of each senatorial district as then organized shall elect one delegate at a partisan election. The delegates so elected shall convene at the seat of government on the first Tuesday in October next succeeding such election or at an earlier date if provided by law.

The convention shall choose its own officers, determine the rules of its proceedings and judge the qualifications, elections and returns of its members. To fill a vacancy in the office of any delegate, the governor shall appoint a qualified resident of the same district who shall be a member of the same party as the delegate vacating the office. The convention shall have power to appoint such officers, employees and assistants as it deems necessary and to fix their compensation; to provide for the printing and distribution of its documents, journals and proceedings; to explain and disseminate information about the proposed constitution and to complete the business of

the convention in an orderly manner. Each delegate shall receive for his services compensation provided by law.

No proposed constitution or amendment adopted by such convention shall be submitted to the electors for approval as hereinafter provided unless by the assent of a majority of all the delegates elected to and serving in the convention, with the names and vote of those voting entered in the journal. Any proposed constitution or amendments adopted by such convention shall be submitted to the qualified electors in the manner and at the time provided by such convention not less than 90 days after final adjournment of the convention. Upon the approval of such constitution or amendments by a majority of the qualified electors voting thereon the constitution or amendments shall take effect as provided by the convention.

#### Schedule and Temporary Provisions

To insure the orderly transition from the constitution of 1908 to this constitution the following schedule and temporary provisions are set forth to be effective for such period as are thereby required.

Sec. 1. The attorney general shall recommend to the legislature as soon as practicable such changes as may be necessary to adapt existing laws to this constitution.

Sec. 2. All writs, actions, suits, proceedings, civil or criminal liabilities, prosecutions, judgments, sentences, orders, decrees, appeals, causes of action, contracts, claims, demands, titles and rights existing on the effective date of this constitution shall continue unaffected except as modified in accordance with the provisions of this constitution.

Sec. 3. Except as otherwise provided in this constitution, all officers filling any office by election or appointment shall continue to exercise their powers and duties until their offices shall have been abolished or their successors selected and qualified in accordance with this constitution or the laws enacted pursuant thereto.

No provision of this constitution, or of law or of executive order authorized by this constitution shall shorten the term of any person elected to state office at a statewide election on or prior to the date on which this constitution is submitted to a vote. In the event the duties of any such officers shall not have been abolished or incorporated into one or more of the principal departments at the expiration of his term, such officer shall continue to serve until his duties are so incorporated or abolished.

Sec. 4. All officers elected at the same election that this constitution is submitted to the people for adoption shall take office and complete the term to which they were elected under the 1908 constitution and existing laws and continue to serve until their successors are elected and qualified pursuant to this constitution or law.

Sec. 5. Notwithstanding any other provision in this constitution, the governor, the lieutenant governor, the secretary of state, the attorney general and state senators shall be elected at the general election in 1964 to serve for two-year terms beginning on the first day of January next succeeding their election. The first election of such officers for four-year terms under this constitution shall be held at the general election in 1966.

Sec. 6. Notwithstanding the provisions of this constitution that the supreme court shall consist of seven justices it shall consist of eight justices until the time that a vacancy occurs as a result of death, retirement or resignation of a justice. The first such vacancy shall not be filled.

Sec. 7. Any judge of probate serving on the effective date of this constitution may serve the remainder of the term and be eligible to succeed himself for election

regardless of other provisions in this constitution requiring him to be licensed to practice law in this state.

Sec. 8. The provisions of Article VI providing that terms of judicial offices shall not all expire at the same time, shall be implemented by law providing that at the next election for such offices judges shall be elected for terms of varying length, none of which shall be shorter than the regular term provided for the office.

Sec. 9. The members of the state board of education provided for in Section 3 of Article VIII of this constitution shall first be elected at the first general election after the effective date of this constitution for the following terms: two shall be elected for two years, two for four years, two for six years, and two for eight years as prescribed by law.

The state board of education provided for in the constitution of 1908 is abolished at twelve o'clock noon January 1 of the year following the first general election under this constitution and the terms of members thereof shall then expire.

Sec. 10. The provisions of this constitution providing for members of boards of control of institutions of higher education and the state board of public community and junior colleges shall be implemented by law. The law may provide that the term of each member in office on the date of the vote on this constitution may be extended, and may further provide that the initial terms of office of members may be less than eight years.

Sec. 11. The provisions of this constitution increasing the number of members of the Board of Trustees of Michigan State University and of the Board of Governors of Wayne State University to eight, and of their term of office to eight years, shall be implemented by law. The law may provide that the term of each member in office on the date of the vote on this constitution may be extended one year, and may further provide that the initial terms of office of the additional members may be less than eight years.

Sec. 12. The initial allocation of departments by law pursuant to Section 2 of Article V of this constitution, shall be completed within two years after the effective date of this constitution. If such allocation shall not have been completed within such period, the governor, within one year thereafter, by executive order, shall make the initial allocation.

Sec. 13. Contractual obligations of the state incurred pursuant to the constitution of 1908 shall continue to be obligations of the state.

For the retirement of notes and bonds issued under Section 26 of Article X of the 1908 constitution, there is hereby appropriated from the general fund each year during their life a sum equal to the amount of principal and interest payments due and payable in each year.

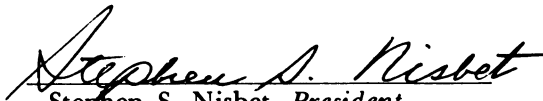
Sec. 14. The legislature by a vote of two-thirds of the members elected to and serving in each house may provide that the state may borrow money and may pledge its full faith and credit for refunding any bonds issued by the Mackinac Bridge Authority and at the time of refunding the Mackinac Bridge Authority shall be abolished and the operation of the bridge shall be assumed by the state highway department. The legislature may implement this section by law.

Sec. 15. This constitution shall be submitted to the people for their adoption or rejection at the general election to be held on the first Monday in April, 1963. It shall be the duty of the secretary of state forthwith to give notice of such submission to all

other officers required to give or publish any notice in regard to a general election. He shall give notice that this constitution will be duly submitted to the electors at such election. The notice shall be given in the manner required for the election of governor.

Sec. 16. Every registered elector may vote on the adoption of the constitution. The board of election commissioners in each county shall cause to be printed on a ballot separate from the ballot containing the names of the nominees for office, the words: Shall the revised constitution be adopted? ( ) Yes. ( ) No. All votes cast at the election shall be taken, counted, canvassed and returned as provided by law for the election of state officers. If the revised constitution so submitted receives more votes in its favor than were cast against it, it shall be the supreme law of the state on and after the first day of January of the year following its adoption.

Adopted by the Constitutional Convention of nineteen hundred sixty-one at Constitution Hall in Lansing on the first day of August, nineteen hundred sixty-two.

  
Stephen S. Nisbet, *President*

  
Fred I. Chase, *Secretary*



[ADDRESS TO THE PEOPLE]

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***What the Proposed  
New State Constitution  
Means to You***

- A report to the people of Michigan  
by their elected delegates to the  
Constitutional Convention of 1961-62.

Lansing, Michigan

August 1, 1962

The section authorizes the legislature, as does the present constitution, to subject all utilities, and such other businesses as the legislature may designate, to state assessment. It does not require the legislature to do so, however, because the disruption to the tax base of local communities which for over 50 years have been locally taxing electric and gas utilities, for example, would be too great.

Uniformity in the method of utility taxation is facilitated by authorizing such taxation at the average rate of the area in which the property is located, rather than the average state rate.

#### Limits on ad valorem taxes.

Sec. 6. *Except as otherwise provided in this constitution, the total amount of general ad valorem taxes imposed upon real and tangible personal property for all purposes in any one year shall not exceed 15 mills on each dollar of the assessed valuation of property as finally equalized. \*\*\*\* Under procedures provided by law, which shall guarantee the right of initiative, separate tax limitations for any county and for the townships and for school districts therein, the aggregate of which shall not exceed 18 mills on each dollar of such valuation, may be adopted and thereafter altered by the vote of a majority of the qualified electors of such county voting thereon, in lieu of the limitation hereinbefore established. These limitations may be increased to an aggregate of not to exceed 50 mills on each dollar of valuation, for a period of not to exceed 20 years at any one time, if approved by a majority of the electors, qualified under Section 6 of Article II of this constitution, voting on the question.*

*The foregoing limitations shall not apply to taxes imposed for the payment of principal and interest on bonds or other evidences of indebtedness or for the payment of assessments or contract obligations in anticipation of which bonds are issued, which taxes may be imposed without limitation as to rate or amount; or to taxes imposed for any other purpose by any city, village, charter county, charter township, charter authority or other authority, the tax limitations of which are provided by charter or by general law.*

*In any school district which extends into two or more counties, property taxes at the highest rate available in the county which contains the greatest part of the area of the district may be imposed and collected for school purposes throughout the district.*

This is a revision of Sec. 21, Article X, of the present constitution which continues in substance the 15-mill limit on property taxes. Statutory county tax allocation boards would be continued as the agencies charged with allocation of the 15 mills among the local units in the county. However, the section does permit the legislature to authorize initiative procedure within a county which would allow a majority of the qualified electors voting thereon to adopt a fixed division of millage among a county, its townships and school districts, the total of which shall not exceed 18 mills. This fixed division and limit voted by the electors would stand until such time as they

change it in another vote. This is simply a "local option" provision which can never be effective without authorization of a majority of the electors in the county affected.

The section continues present provisions which permit the electors of any taxing district to vote additional millage, subject to the present 20-year limit and over-all 50-mill limit. Cities and villages are excepted, as at present, from the 15-mill limit. The exception is also extended to charter townships, and charter counties organized under the terms of this new document. Such units would be subject only to limitations established in their charters or by law.

All bond issues of local units of government will have unlimited tax support.

All electors may vote on millage increases up to and including 5 years for general purposes, but only property owners and their spouses may vote on property tax increase proposals which extend for more than 5 years. Saving provisions are incorporated in the section to protect present voted millage and outstanding bonds.

The final sentence, dealing with multi-county school districts, is intended to answer a problem involving 60 counties of this state. It provides that in any school district which crosses county lines, the tax limitation shall be that applicable in the portion of the school district situated in the county containing the largest portion of the school district.

#### No graduated income tax.

Sec. 7. *No income tax graduated as to rate or base shall be imposed by the state or any of its subdivisions.*

This is a new section making it clear that neither the state nor any local unit of government may impose a graduated income tax. The words "or base" are necessary to prevent "piggyback" taxation based on the federal tax liability. Without such language, a tax nominally imposed at a flat rate might actually adopt all of the graduation of the federal tax.

A flat rate income tax is clearly permitted, and could be imposed on a "piggyback" basis on income computed for federal tax purposes. The legislature could prescribe reasonable exemptions for a flat rate tax.

#### Sales tax limit.

Sec. 8. *\*\*\* The legislature shall not impose a sales tax on retailers at a rate of more than four percent of their gross taxable sales of tangible personal property.*

This is a revision of a part of Sec. 23, Article X, of the present constitution.

#### Gasoline and motor vehicle taxes; use; exceptions.

Sec. 9. *All specific taxes, except general sales and use taxes and regulatory fees, imposed directly or indirectly \*\*\*\* on fuels sold or used to propel motor vehicles upon \* highways \*\* and on \* registered motor vehicles \*\* shall, after the payment of necessary collection expenses, \*\* be used exclusively for highway purposes as defined by law. \*\*\*\**