

Report No. 1

REPORT ON
THE GENERAL ASSEMBLY OF NORTH CAROLINA

North Carolina
Legislative Research Commission

Raleigh

1967



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Introduction

Throughout the United States, there is a high level of interest in the modernization of the organization, processes, procedures, facilities, and services of the state legislatures. Much of this interest has originated with legislators themselves, who are concerned that the legislative institution be prepared to deal effectively with the problems that the last third of the Twentieth Century is thrusting upon it. From the ensuing research and studies has come much published information on state legislatures and how they do their work.

Resolution 92, adopted by the 1965 General Assembly of North Carolina, is one manifestation of this nationwide interest in the strengthening of the legislative branch. That resolution directed this Commission

to study matters relating to Annual Sessions of the General Assembly, remunerative benefits of legislators, the convening date of the General Assembly, and other matters affecting legislative service and to report its findings to the 1967 General Assembly.

In pursuance of that study, this Commission directed the preparation of various written materials for the information of its members. These materials are listed in Appendix C and are available for inspection in the Library of the Legislative Research Commission. The Commission also created a Subcommittee, which made inquiry into the subject, heard witnesses, and filed a report and recommendations with the Commission.

(See Appendix B for the full report of this Subcommittee.)

In this report, the Commission has dealt with all the matters listed in the legislative resolution and with other topics on which it has definite recommendations to offer. There were additional topics dealt with by the Subcommittee on which the Commission did not see fit to make a specific recommendation, and they are only briefly mentioned here.

The findings of fact in this Report will be brief, and the reader who is interested in more detailed information on most of the subjects here discussed is invited to examine the reports prepared for this Commission.

Findings, Conclusions, and Recommendations

1. Annual or Biennial Legislative Sessions

Until 1835, the General Assembly met in annual session; since that time, except for a brief period during Reconstruction (1868-73), it has met biennially in regular session by constitutional requirement. In recent years there have been at least three bills introduced in the General Assembly calling for a constitutional amendment requiring annual sessions. None of these proposals reached the voters. A recurrence of interest in the subject caused the 1965 General Assembly to assign it to this Commission for study.

Nationwide, the trend has been from an original pattern of annual sessions to an almost uniform pattern of biennial sessions and now back toward annual sessions. Only four states held regular annual sessions in 1941; 21 do so now and a 22d state, New Hampshire, recently voted to join the annual session group. About one-third of the annual session states attempt to limit the subject-matter of the alternate year session to fiscal matters. (California and Kansas recently abandoned that limitation.)

This Commission has heard witnesses and received written information favoring both annual and biennial legislative sessions. We have considered carefully whether, given the magnitude of the responsibilities of the General Assembly in a fast-moving world, the time has come for North Carolina to adopt annual sessions. We have concluded, however, that the State should continue the present pattern of biennial sessions.

While there have been occasional proposals for annual legislative sessions, some of them reaching bill form, they do not represent widespread dissatisfaction with the biennial session, either within the

General Assembly or among the public at large. An examination of the length of regular sessions in recent years and the quantity of legislation they have handled gives no clear evidence that the pressure for annual sessions is any greater now than it was a decade ago.

It is true that annual sessions would make possible an annual state budget, which in turn would require the estimation of revenues and expenditures for only one fiscal year at the time, rather than for two. The price, however, would be roughly a doubling of the time required for budget preparation and review, and we do not believe that the gain to be hoped for from an annual budget would be worth its cost.

To us, the most telling advantage of the biennial session over the annual session is to be found in the types of men who make up our General Assembly. The biennial, five-month session, even with attendant campaign and other time commitments, still leaves most legislators adequate time to fulfill the traditional role of citizen-legislator, making a living at some business or profession and serving the State for nominal pay. A change to annual sessions, with a possible doubling of the time spent in session, would make it impossible for many professional and business people to serve, or to serve for long, in the General Assembly. The result would be a tendency toward the development of the professional legislator whose main activity and source of income were legislative. We do not believe that this would be a healthy development for North Carolina. If and when it becomes desirable that service in the General Assembly become a full-time activity, then that decision should be made deliberately, directly, with full awareness of its consequences (including the necessity of paying salaries adequate to attract competent candidates), and not as the indirect result of shifting to annual legislative sessions.

We do not assume that the negative disposition of this Commission will or should settle this issue for all time. On the contrary, we suggest that the General Assembly continue to study the needfulness of annual sessions in North Carolina. It may be that future changes in circumstances will make it advisable to move to annual sessions, notwithstanding what now appear to be overwhelming objections to them.

We note that the General Assembly now has the power to achieve many of the advantages of the annual session without the necessity of a constitutional amendment, if it wants to do so. The State Constitution, Article II, Sec. 22, provides in part that "the two houses may also jointly adjourn to any future day, or other place." Thus it would be possible for the General Assembly, when it had finished its work in its regular session in an odd-numbered year, to adjourn to meet again on a specific day in the following year, instead of adjourning sine die as is now the custom. Presumably the rules, officers, organization, and committee assignments of the regular session would prevail in the adjourned session as well.

The one obvious complication in this plan lies in the present constitutional limit on legislative pay. Members are paid \$15 a day for 120 (calendar) days. Once that pay period is used up -- and it always is used up in the regular session -- the members would be entitled to no further pay (although they could draw their subsistence allowance, which has no time limit). Assuming that the regular session lasted for most or all of the 120-day period, the members would receive little or no pay for their service during the adjourned session. Judging from the homeward turn now given to the thoughts of legislators by the expiration of the 120-day pay period, it is likely that adjourned sessions would be short. The feasibility of the adjourned session nevertheless merits consideration and perhaps a trial by the General Assembly.

Recommendation

We recommend that the General Assembly continue to meet biennially, but that it continue to study the feasibility and desirability of meeting in annual session.

We further recommend that the General Assembly consider the feasibility of adjourned sessions as a means of testing some of the advantages and disadvantages of the annual session.

2. Convening Date

From 1879 through 1955, the General Assembly met in regular session early in January of each odd-numbered year. Since 1957, the biennial session has begun on the first Wednesday after the first Monday in February under a constitutional provision which permits the General Assembly to alter the convening date. There have been repeated proposals for a reversion to a January convening date -- hence this study to determine the preferred date for convening regular legislative sessions.

Forty-five states have at least one regular session convening in January. Twenty-six of the twenty-nine biennial session states convene in January. Only the legislatures of North Carolina and Hawaii regularly meet in February.

We favor retention of the present convening date. It allows the new Governor, in those years immediately following the quadrennial election, essential time to begin his administration and prepare his legislative program before he confronts the General Assembly. It gives the members time to clear up first-of-the-year business affairs before coming to Raleigh for the session. The seasonal requirements of agriculture are no longer weighty considerations, since few legislators today are personally engaged in farming. The provision of the fully air-conditioned State Legislative Building has relieved one of the former pressures for early departure from Raleigh. For these reasons, we believe that the interests of the State and of the individual members of the General Assembly will best be served by retaining the February convening date for the General Assembly.

Recommendation

We recommend that the General Assembly continue to convene in regular session on the first Wednesday after the first Monday in February of odd-numbered years.

3. Legislative Pay and Allowances

Since 1876, the State Constitution has fixed the maximum pay that a member of the General Assembly may receive for his services. The form of the limitation has varied. Since 1956, members of the General Assembly have been entitled to receive \$15 a day for not more than 120 days of a regular session or 25 days of an extra session. Since the pay period is in practice measured by calendar days, the pay period always expires before the end of a regular session. Members also receive a subsistence allowance (currently \$20 a day) for the full time of their service in Raleigh.

The practices among the other states in paying their legislators vary quite widely both in the form of pay and its amount, even as the time spent by the member in legislative activity varies from state to state. The biennial realized compensation of a member ranges from \$200 in New Hampshire to \$34,000 in New York. Taking into account both salary and subsistence allowance, it appears that the North Carolina legislator, with a biennial realized compensation of about \$4,500, fares slightly less well than does his counterpart in a little over half of the states.

We note that the trend is towards paying state legislators annual salaries, rather than per diem. Over three-fifths of the states now pay salaries. There is also a trend towards authorizing the legislature itself to fix legislative compensation, often with the limitation that any increase in compensation cannot take effect until after the next election for legislators.

We believe that a necessary first step in the improvement of legislative compensation is the adoption of a constitutional amendment vesting in the General Assembly the authority to fix the pay and other forms of

compensation of its members subject to the restriction that any increase in compensation will not be effective for the session of the General Assembly which enacts it. The present constitutional restriction on legislative pay is a relic of the period immediately following Reconstruction, when legislatures throughout the Nation were in low repute and close restrictions were thought to be in order. Surely today, a legislature that is trusted to appropriate well over a billion dollars a year in public funds and to exercise extensive control over the lives, liberty, and property of the citizens of the State can be trusted to exercise discretion in setting the pay of its members. The political practicalities will insure that it does so.

Recommendation

We recommend that the Constitution be amended to remove the present provisions with respect to legislative pay and to substitute a provision authorizing the General Assembly to fix the pay of its members, any increase to become effective after the next election for members of the General Assembly.

4. Retirement Benefits for Legislators

About three-fifths of the states have established some type of retirement system for their state legislators. This number includes at least one-half of the biennial session states.

A bill for the establishment of a special retirement system for North Carolina legislators was introduced in the 1965 session but died in committee.

We agree with the conclusion of our Subcommittee that before retirement benefits could be provided for legislators, it would be necessary to pass a constitutional amendment, and that until legislative service becomes a full-time profession, a provision for retirement benefits would be inconsistent with all other provisions concerning the terms and pay of legislators.

Recommendation

We recommend that until service in the General Assembly becomes a full-time profession, no retirement system be established for members of the General Assembly.

5. Terms of Legislators

Since 1836, all members of the General Assembly of North Carolina have been elected for two-year terms. Recent developments, specifically including the requirement that both houses be apportioned on the basis of population alone, raise the question of whether the terms of members of one house should be lengthened in order to introduce some differentiation beyond mere size of constituency between Senators and Representatives.

Fourteen states (including North Carolina) elect all of their legislators for two-year terms. The remaining 36 states elect their Senators for four-year terms. Four of these 36 also elect their Representatives for four-year terms; the other 32 elect their Representatives for two-year terms.

While longer terms would have obvious advantages for legislators, chiefly in relieving them of the necessity of campaigning every two years, and while they would add an additional element of stability to the legislature as an institution, we do not believe that the change would bring benefits to the State equal to the effort that would be required to gain popular approval of the necessary constitutional amendment. Therefore we are making no recommendation for change in this particular.

6. Saturday Sessions

The question is often raised informally whether the vestigial Saturday legislative session should not be abandoned. Associated with it is the question of what impact that action would have on the practice of paying legislators on the basis of a seven-day week, when they in fact sit for only five days. At the request of this Commission, a detailed study of this subject has been made, enabling the following conclusions to be reached:

1. Prior to the 1917 regular session, Saturday was a working day. Attendance usually was down somewhat from other weekdays, but public business was taken up in normal order. Each house reconvened on Monday at the regular hour fixed by the rules.

2. Beginning in 1917, the Monday convening hour was set back to early in the afternoon and Saturday attendance was down to 70 or 80 members.

3. The Monday convening hour of 8:00 p.m. was first used in the 1920 Extra Session, and the following year it became routine. Saturday attendance remained at around 70 or 80. Saturday sessions were confined to local business early in the session, but public bills were taken up regularly on Saturdays late in the session.

4. Beginning with the 1933 regular session, no roll calls were held on normal Saturdays for lack of a quorum. Toward the end of the session, Saturday became a regular working day if a quorum could be mustered.

5. By 1957 only voice-vote, local calendar action was taken up on Saturdays; there was no other business transacted.

6. Since 1959 no business of any kind has been transacted in either house on normal Saturdays. In 1965, no business was transacted on any Saturday in either house.

7. For many decades, it has been the practice to pay members of the General Assembly on the basis of a seven-day week. Thus the maximum pay period of 120 days is counted by calendar days, not legislative days or days of attendance.

8. There has been no authoritative interpretation of the Constitution supporting the practice of tying legislative per diem compensation to calendar days. Nor has there been an opinion of the Attorney General on the subject.

Thus there appears to be nothing to prevent the two houses from recessing from Friday until Monday and omitting the empty formality of convening a Saturday session which few if any members attend and at which no business is done. We see no reason why this should affect the present practice of paying members on the basis of seven days a week; no pretense has been made that the General Assembly sits on Sunday, yet members draw pay for Sunday. The pay question is not entirely free from doubt, however, and we prefer not to encourage the raising of unnecessary issues which a literal-minded court might decide contrary to the practice of over half a century. Therefore we are making no recommendation on this subject.

7. Legislative Representation

The decision of the United States District Court in Drum v. Seawell, 249 F. Supp. 877 (M.D.N.C. 1965), and the resulting action of the General Assembly in reapportioning the House of Representatives to reflect population have made obsolete a portion of the provisions of the North Carolina Constitution with respect to apportionment of the House. While the constitutional provisions governing apportionment of the Senate are not in conflict with the federal Constitution, they are in need of minor clarifying revision. It is now clear that no amendment will be added to the federal Constitution to permit a return to the non-population based apportionment schemes of the past. Therefore we favor amending the state Constitution in such way as to make it conform to current apportionment practice. A draft of a bill to achieve this result is attached as an appendix to this Report.

Recommendation

We recommend the amendment of the state Constitution in order to conform the provisions of that Constitution pertaining to the apportionment of the state Legislature to the current practices in that respect.

8. Library

It is essential to the effective operation of the General Assembly, its commissions and committees, its members, and its staff to have available in the State Legislative Building an adequate, basic library of legal and reference materials. The Legislative Building includes ample quarters for a legislative library, but the present book collection is a miscellaneous accumulation consisting chiefly of old legislative journals and session laws. It is poorly organized, and it is not tended by one trained in running a library.

The General Assembly has an obligation to improve its own effectiveness of operation in every way it can, and we believe that one way to do so is through the upgrading of the legislative library. This we interpret to include not only the assembly and management of an adequate collection of books, periodicals, and other appropriate materials, but the provision of reference services to members of the General Assembly.

Recommendation

We recommend that additional money be appropriated and additional personnel be hired, if necessary, to upgrade the library in the State Legislative Building, and particularly to obtain those books and periodicals that would be of help to the General Assembly, its commissions, its committees, and its members.

We further recommend that reports of all study commissions and of all state departments be housed in the legislative library.

We further recommend that an adequate legislative reference library be maintained in the State Legislative Building.

9. Committee Staff

The major committees of the General Assembly need help. The members of those committees are busy with the manifold concerns shared by all members of the General Assembly. Rarely are they experts in the subject matter of their committees. They need competent, professional staff assistance. It is true that some of the larger committees -- Appropriations and Finance, for example -- now have professional help from administrative agencies. Those committees need their own staff members, however, with loyalties running to the committees and not to administrative agencies that are their regular employers.

We are convinced that it would enable more intelligent and expert review and evaluation of legislation if the principal committees were adequately staffed during legislative sessions. Among the committees of each house that appear to be in need of staff help are Appropriations, Finance, Highways, Judiciary, Insurance, Public Health, Welfare, Education, Higher Education, Highway Safety, and Agriculture.

Recommendation

We recommend that the General Assembly provide adequate professional staff for the principal committees of the House and Senate, to the end that the work of those committees may be more effectively performed.

10. Legislative Drafting Services

The importance of accurate and prompt legislative drafting to the effectiveness of the legislative operation cannot be overestimated. It is our conclusion that the General Assembly has not in recent sessions had the kind of drafting services that it needs.

G.S. 114-9 provides that the Attorney General is the official bill draftsman of the State. His office does the vast majority of the drafting of bills for introduction, as well as many amendments and committee substitutes. The members of the Attorney General's staff who carry on this service also have other continuing duties as counsel to state agencies and institutions which limit the time they can put on legislative drafting, and their distance from the State Legislative Building makes dealing with them inconvenient. We believe that the efficient performance of the law-making function of the General Assembly requires that improved legislative drafting services be available within the State Legislative Building.

Recommendation

We recommend that the General Assembly provide competent personnel to aid legislators in drafting bills, amendments, committee reports, and other materials pertinent to legislation, and that such personnel occupy offices in the State Legislative Building for the entire legislative session.

11. Second Set of Bills

The practice of providing members of the General Assembly with a single set of printed bills which remains at the member's desk in the House or Senate Chamber arose when members had no other office or working space. Now that each member has an office, it would be a substantial convenience for him to be provided with two sets of all public bills, one to be kept at his desk in the chamber and the other to be kept in his office.

Recommendation

We recommend that two copies of all public bills be provided for each member of the General Assembly, one for his desk in the chamber and one for his office.

12. Expense Reimbursement for Legislative Officers

The Speaker of the House of Representatives and the President Pro Tempore of the Senate, by reason of their positions and especially because they are Co-chairmen ex officio of the Legislative Research Commission, incur substantial clerical, postage, telephone, and related expenses in the performance of their official duties. The Chairman of the Advisory Budget Commission incurs similar expenses. None of these expenses is now reimbursable. We believe that suitable provision should be made for the reimbursement of these public officers for office and related expenses incurred by them in serving the public.

It should be noted that while all three of these officers serve on this Commission, none of them took any part in the initiation, discussion, or adoption of this recommendation.

Recommendation

We recommend that adequate provision be made to pay the expenses necessarily incurred by the Chairman of the Advisory Budget Commission, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate in carrying out their official duties.



13. Orientation Conference

With the encouragement and participation of members of this Commission, the Institute of Government in December 1966 held an orientation conference for members of the General Assembly. The first day's session was planned for the newly-elected legislator, and included lectures on legislative organization and procedure and sources of information and aid for members. The second day's session was devoted to hearing reports from several study commissions which will have recommendations for the 1967 session. Over 150 of the 170 members of the 1967 General Assembly attended the conference. We commend the Institute of Government for sponsoring this conference and the many people who took part in it in various capacities, and we hope that it will be repeated in the future.

Appendix A

RESOLUTION 92

H. R. 1151

A JOINT RESOLUTION DIRECTING THE LEGISLATIVE COUNCIL OR ITS SUCCESSOR TO STUDY VARIOUS LEGISLATIVE MATTERS AND REPORT ITS FINDINGS AND RECOMMENDATIONS TO THE 1967 GENERAL ASSEMBLY.

Be it enacted by the House of Representatives, the Senate concurring:

Section 1. The Legislative Research Commission is hereby directed to study matters relating to Annual Sessions of the General Assembly remunerative benefits of legislators, the convening date of the General Assembly, and other matters affecting legislative service and to report its findings and recommendations to the 1967 General Assembly.

Sec. 2. This Resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of June, 1965.

Appendix B

REPORT
TO
THE LEGISLATIVE RESEARCH COMMISSION
FROM
THE SUBCOMMITTEE APPOINTED TO STUDY THE RESOLUTION
CONCERNING LEGISLATIVE MATTERS

November 11, 1966

Senator Herbert L. Hyde, Chairman
Senator Thomas J. White
Representative Hugh S. Johnson, Jr.



North Carolina
Legislative Research Commission

STATE LEGISLATIVE BUILDING

Raleigh

November 11, 1966

CO-CHAIRMAN:

H. P. TAYLOR, JR.

SPEAKER, HOUSE OF REPRESENTATIVES

ROBERT B. MORGAN

PRESIDENT PRO TEMPORE, SENATE

COMMISSION MEMBERS:

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FRED M. MILLS, JR.

DWIGHT W. QUINN

THOMAS W. SEAY, JR.

WAYLAND J. SERMONS

THOMAS J. WHITE

MEMO TO: The Legislative Research Commission

FROM: Senator Herbert L. Hyde, Chairman
Senator Thomas J. White
Representative Hugh S. Johnson, Jr.

SUBCOMMITTEE APPOINTED TO STUDY THE FOLLOWING
RESOLUTION:

A JOINT RESOLUTION DIRECTING THE LEGISLATIVE COUNCIL
OR ITS SUCCESSOR TO STUDY VARIOUS LEGISLATIVE MATTERS
AND REPORT ITS FINDINGS AND RECOMMENDATIONS TO THE
1967 GENERAL ASSEMBLY.

The subcommittee submits herewith a report on the
above Resolution. This is in accordance with the
motion adopted at the April 29, meeting of the
Legislative Research Commission.

November 11, 1966

Included in the report is a commendation from the subcommittee to Mr. John Sanders, Director of the Institute of Government, and his staff for their excellent work in assisting with our study; however, in this letter of acknowledgment, we should again like to express our appreciation.

We should also like to thank the Honorable David M. Britt and the Honorable Elton Edwards for taking valuable time to appear before the Commission expressing their views.

The comments and letters of many legislators interested in this Resolution were of great value, and our sincere gratitude to them.

Senator Herbert L. Hyde, Chairman
Senator Thomas J. White
Representative Hugh S. Johnson, Jr.

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REPORT TO THE LEGISLATIVE RESEARCH COMMISSION

FROM

THE SUBCOMMITTEE APPOINTED TO STUDY THE RESOLUTION
CONCERNING LEGISLATIVE MATTERS

Senator Herbert L. Hyde, Chairman
Senator Thomas J. White
Representative Hugh S. Johnson, Jr.

- (1) The subcommittee recommends:
 - (a) That there be additional money appropriated and personnel hired, if necessary, to upgrade the library in the Legislative Building and, particularly, to obtain those periodicals and books that would be of help to the Legislative Research Commission, other Commissions or Committees, and to the Legislature while in session;
 - (b) That adequate copies of all study commission reports and biennial reports of departments and any other useful department reports be housed and conserved in the library;
 - (c) That an adequate Legislative Reference Library be maintained in the Legislative Building.
- (2) The subcommittee recommends that the Legislature provide competent personnel to aid legislators in drafting bills, amendments, reports of committees or any other matters pertinent to legislation; such personnel to be present the

entire session and located in the Legislative Building in an office provided by the Legislature.

(3) The subcommittee recommends that adequate staff be provided for the committees during the session and, particularly, that they be provided for the large committees in each House. Though not specifically recommended, this would include Appropriations, Finance, Highways, Judiciary Committees, Insurance, Public Health, Welfare, Education and Higher Education, Highways, Highway Safety and Agriculture.

(4) The subcommittee was not directed to study this aspect, but it recommends, if the Institute of Government would agree to do so, that the Institute be requested to conduct an orientation program for all legislators prior to the commencing of the session and particularly for those without prior service. This program would, in no way, conflict with those classes conducted by the Honorable Thad Eure for freshman legislators on parliamentary procedure.

(5) The subcommittee recommends that adequate provision be made for the early, periodical publishing (suggested fortnightly) of the laws, both local and general, as they are passed by the Legislature; that copies be made available to judges, solicitors and other public officials concerned or interested, including legislators.

(6) The subcommittee recommends that local bills be printed for the use of legislators.

(7) The subcommittee recommends that two (2) copies of all bills be provided for legislators, one for their desk in the Chamber and one for their office.

(8) The subcommittee recommends to the Rules Committee of each House that consideration be given to the advisability of reducing the number of committees perhaps by fifty percent (50%), and the number of committees on which each member serves. This is a recommendation only to the Rules Committees.

(9) The subcommittee recommends that Saturday sessions be eliminated, but that the traditional session schedule otherwise be retained; that the present system of paying seven (7) days a week be continued.

(10) The subcommittee recommends the convening date remain as it is now.

(11) The subcommittee is convinced that before retirement benefits could be provided for legislators, it would be necessary to pass a constitutional amendment. It is further convinced, that until such time as serving in the North Carolina Legislature becomes a full time profession, providing for retirement pay would be inconsistent with all other matters concerning terms and pay of legislators and, therefore, recommends that retirement pay not be provided for legislators at this time.

(12) The chairman of the subcommittee believes that four-year terms would upgrade the Legislature, adding stability

to it and allowing the individual legislator more time to take care of government business and require less time for politicing. The question, however, of four-year terms is presented to the full Commission without ~~recom-~~ mendation.

(13) The subcommittee has carefully considered the question of annual sessions. It has received the Charlotte Chamber of Commerce's brief for annual sessions. It has considered the expressed opinions of other legislators opposed to annual sessions. The subcommittee chairman is personally of the opinion that annual sessions would benefit North Carolina, but presents the question to the full Commission without recommendation.

(14) Although not specifically assigned to the subcommittee for study, the question of amending the Constitution to make it square with present statutes and practice on representation and districting is related and, therefore, the subcommittee recommends that the attached proposed amendment prepared by the Institute of Government be adopted. If the full Commission decides it appropriate to offer an amendment to the Constitution to allow four-year terms for either or both Houses, or to allow annual sessions or to amend it in such fashion that the Legislature could, if it wishes, enact statutes allowing annual sessions, the subcommittee recommends that the attached proposed constitutional

amendment be changed to satisfy the full Commission.

(15) The subcommittee has compared legislative pay in North Carolina to that of other states. It does not believe that the people of North Carolina would approve, nor does the subcommittee approve, a pay scale comparable to California or New York, but it is convinced that competent legislators will always be desired by the people of North Carolina and that the adequacy of pay has some relation to the attraction of able and competent candidates for the Legislature.

Presently the government demands the best talent the State can afford. Present day legislators' pay is not adequate to compete with the earning ability of the great majority of legislators now serving. As a result, those who now offer themselves to serve the State in its Legislature do so at great financial sacrifice. The subcommittee is well aware of tradition and the constitutional provision that the Legislature shall not set its own pay, but that the people shall do so by the Constitution. Notwithstanding this tradition, the subcommittee recommends that the full Commission consider a constitutional amendment either raising the allowance of legislators by specific dollar amendment, or allowing the Legislature to set its own pay in the future.

The subcommittee commends the excellent work of the Institute of Government and its director,



Mr. John Sanders, in obtaining pertinent information, and would like to extend its thanks personally to Mr. Sanders and the Institute for preparing the attached report, and the report on Legislative Compensation and Legislative Session Days in the General Assembly of North Carolina.

SESSION 196

INTRODUCED BY:

Referred to:

1 A BILL TO BE ENTITLED AN ACT TO REWRITE ARTICLE II, SECTIONS 4,
2 5, AND 6 OF THE CONSTITUTION OF NORTH CAROLINA, WITH RESPECT
3 TO REPRESENTATION IN THE GENERAL ASSEMBLY OF NORTH CAROLINA.

4 The General Assembly of North Carolina do enact:

5 Section 1. Article II of the Constitution of
6 North Carolina is amended by rewriting Section 4 thereof to
7 read as follows:

8 "Sec. 4. Senate districts; apportionment of Senators.

9 The Senators shall be elected from districts. The General Assembly
10 shall, at the first regular session convening after the return
11 of every decennial enumeration taken by order of Congress, revise
12 the senate districts and the apportionment of Senators among
13 those districts, subject to the following requirements:

14 "(1) Each Senator shall represent, as nearly as may
15 be, an equal number of inhabitants, the number of inhabitants
16 which each Senator represents being determined for this purpose
17 by dividing the population of the district he represents by the
18 number of Senators apportioned to that district;

19 "(2) Each senate district shall at all times consist
20 of contiguous territory;

21 "(3) No county shall be divided in the formation of
22 a senate district;

23 "(4) When established, the senate districts and the
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1 apportionment of Senators shall remain unaltered until the
2 return of another decennial enumeration taken by order of
3 Congress.

4 "The duty imposed upon the General Assembly by this
5 section shall continue until performed."

6 Sec. 2. Article II of the Constitution of
7 North Carolina is amended by rewriting Section 5 thereof to
8 read as follows:

9 "Sec. 5. Number of Representatives. The House of
10 Representatives shall be composed of 120 Representatives,
11 biennially chosen by ballot."

12 Sec. 3. Article II of the Constitution of
13 North Carolina is amended by rewriting Section 6 thereof to
14 read as follows:

15 "Sec. 6. Representative districts; apportionment
16 of Representatives. The Representatives shall be elected from
17 districts. The General Assembly shall, at the first regular
18 session convening after the return of every decennial
19 enumeration taken by order of Congress, revise the representative
20 districts and the apportionment of Representatives among those
21 districts, subject to the following requirements:

22 "(1) Each Representative shall represent, as nearly
23 as may be, an equal number of inhabitants, the number of
24 inhabitants which each Representative represents being determined
25 for this purpose by dividing the population of the district he
26 represents by the number of Representatives apportioned to that
27 district;

28 "(2) Each representative district shall at all times

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1 consist of contiguous territory;

2 "(3) No county shall be divided in the formation of
3 a representative district;

4 "(4) When established, the representative ~~districts~~
5 and the apportionment of Representatives shall remain unaltered
6 until the return of another decennial enumeration taken by order
7 of Congress.

8 "The duty imposed upon the General Assembly by this
9 section shall continue until performed."

10 Sec. 4. Article II of the Constitution of North
11 Carolina is amended by rewriting Section 13 thereof to read
12 as follows:

13 "Sec. 13. Vacancies. Every vacancy occurring in the
14 membership of the General Assembly by reason of death, resigna-
15 tion, or other cause shall be filled in the manner prescribed by
16 law."

17 Sec. 5. The amendments set out in Section 1, 2, 3,
18 and 4 of this Act shall be submitted as a unit to the qualified
19 voters of the State at the next general election. That election
20 shall be conducted under the laws then governing general elections
21 in this State.

22 Sec. 6. At that election, the qualified voters favoring
23 the amendments set out in Sections 1, 2, 3, and 4 of this Act
24 shall vote ballots on which shall be printed or written the words:

25 "FOR constitutional amendments continuing present
26 system of representation in the General Assembly,"
27 and those voters opposed shall vote ballots on which shall be
28 printed or written the words:

1 "AGAINST constitutional amendments continuing
2 present system of representation in the
3 General Assembly."

4 Sec. 7. If a majority of the votes cast thereon be
5 in favor of the amendments set out in Sections 1, 2, 3, and 4
6 of this Act, the Governor shall certify those amendments under
7 the Great Seal of the State to the Secretary of State, who shall
8 enroll those amendments so certified among the permanent records
9 of his office, and the amendments shall become effective upon
10 that certification.

11 Sec. 8. All laws and clauses of laws in conflict
12 with this Act are repealed.

13 Sec. 9. This Act shall become effective upon its
14 ratification.

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Memorandum Explaining "A Bill to be Entitled an Act to Rewrite Article II, Sections 4, 5, and 6 of the Constitution of North Carolina, with respect to Representation in the General Assembly of North Carolina."

The general objectives of this draft bill are (1) to conform the provisions of the Constitution governing representation in the General Assembly to the system now in force as a result of Drum v. Seawell, F. Supp. (M. D. N. C., 1965); (2) to delete obsolete language excepting from the population of the State for legislative representation purposes "aliens and Indians not taxed"; (3) to conform the language governing the Senate redistricting procedure to long-standing practice, and (4) to pattern House redistricting after Senate redistricting provisions.

Section 1. Rewrites Article II, Sec. 4, to make the provisions governing representation in the Senate conform to the practice which has prevailed since 1868.

(a) The first sentence makes clear what is already implied but not specifically stated: that Senators are to be elected by districts.

(b) The second sentence makes clear that it is the first "regular" session of the General Assembly after each census which is to revise senatorial representation.

(c) The second sentence also specified that senate redistricting is to occur after each "decennial" federal census. It is quite possible that in the future, federal censuses may be held every five years, and it would not be desirable to tie senate redistricting to an externally-established schedule shorter than ten years.

(d) Finally, the second sentence of the opening paragraph makes clear that revision of representation involves both a revision of district lines and a revision of the apportionment of Senators among the districts. (See (e), below.)

(e) The Constitution now specified that "each Senate district shall contain . . . an equal number of inhabitants" Read literally, that provision would require 50 districts, or one for each Senator. But in practice, that provision has never been given that interpretation. The Convention of 1868 (which wrote that provision) set up some temporary multi-senator districts, and every General Assembly since 1868 that has changed senatorial representation has established some multi-senator districts. What has been sought in practice has been approximately equality of constituents per Senator, on the assumption that in the two-senator districts each Senator represents one-half of the district population,

in three-Senator districts each Senator represents one-third of the district population, etc.

The change in clause (1) to the phraseology that "Each Senator shall represent, as nearly ~~as may be~~, an equal number of inhabitants . . ." is proposed in anticipation of the possibility that this section may come under court review. The United States Supreme Court has held that multi-member state senatorial districts are not invalid on their face as violative of the Fourteenth Amendment. Given the plain language of the present constitutional provision, however, a court might very well hold that the Constitution directs that there must be 50 single-member senatorial districts in North Carolina, notwithstanding ancient practice to the contrary. The proposed language would avoid reaching that result in that way, and would simply conform the language of the Constitution to the practice of the last 98 years.

The present language excluding "aliens and Indians not taxed" from the population of the State for the purpose of senatorial redistricting is omitted here, since the federal census does not now count aliens separately, and the Attorney General says that there are no Indians in North Carolina who are not subject to taxation.

(f) Clause (2) is drawn from the present Section 4, without change.

(g) Clause (3) is drawn from the present Section 4, without change in the portion set forth in the draft bill; however, the present constitutional provision adds the qualifying clause "unless such county shall be equitably entitled to two or more Senators." That clause, when read in conjunction with the present provision of Section 4 which appears to require that each senatorial district shall be equal in population, further suggests that single-senator districts are intended by the Constitution, and it has been eliminated for that reason. Furthermore, it would tend to fractionalize counties unnecessarily to split them up into two or more senatorial districts. Under the proposed language, that would not be possible.

(h) The content of clause (4) is brought forward from the present Section 4 without change in substance; the language has been altered to conform to other changes already explained.

(i) The final paragraph of Section 4 as revised makes explicit what is already implicit in the present Section 4: that if the first legislative session after a federal census fails to revise senatorial representation, that does not relieve subsequent sessions of the General Assembly from performing that duty.

Section 2. Rewrites Article II, Sec. 5 to specify the number of Representatives. The form of the language is the same as that for the Senate (Article II, Sec. 3).

Section 3. Rewrites Article II, Sec. 6, to specify the method of redistricting and reapportioning the House of Representatives. The language follows exactly that of proposed Article II, Sec. 4, dealing with the Senate, merely substituting "Representative" for "Senator" and "representative districts" for "senate district." The existing plan of apportionment of the House of Representatives would conform to the proposed language of Article II, Sec. 6.

Section 4. Rewrites Article II, Sec. 13, to authorize the General Assembly to prescribe the manner in which vacancies in the General Assembly are to be filled.

Sections 5, 6, 7, 8, and 9. These are standard provisions submitting the amendments as a unit to the voters for ratification or rejection at the next general election (presumably November 1968). The amendments, if ratified by the voters, would take effect upon the certification of their ratification.

RESOLUTION 92

H. R. 1151

A JOINT RESOLUTION DIRECTING THE LEGISLATIVE COUNCIL OR ITS SUCCESSOR TO STUDY VARIOUS LEGISLATIVE MATTERS AND REPORT ITS FINDINGS AND RECOMMENDATIONS TO THE 1967 GENERAL ASSEMBLY.

Be it enacted by the House of Representatives, the Senate concurring:

Section 1. The Legislative Research Commission is hereby directed to study matters relating to Annual Sessions of the General Assembly, remunerative benefits of legislators, the convening date of the General Assembly, and other matters affecting legislative service and to report its findings and recommendations to the 1967 General Assembly.

Sec. 2. This Resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of June, 1965.

Appendix C

LIST OF DOCUMENTS PRESENTED TO THE COMMISSION

1. Legislative Sessions and Related Legislative Problems. (Tallahassee: Florida Legislative Council, 1965).
2. Report to the Legislative Research Commission on Selected Factors Affecting Legislative Service in North Carolina, by John L. Sanders (Chapel Hill: Institute of Government, 1966).
3. Report to the Legislative Research Commission on Legislative Compensation and Legislative Session Days in the General Assembly of North Carolina, by Joseph S. Ferrell. (Chapel Hill: Institute of Government, 1966).
4. Brief by Mr. Fleet Williams on Resolution Dealing with Legislative Matters.

Appendix D

MINUTES OF THE COMMISSION

The inquiry with respect to the General Assembly was discussed by the Legislative Research Commission at its meetings on the dates listed below. The minutes of those meetings are on file in the Library of the State Legislative Building and may be inspected there.

December 3, 1965

April 1, 1966

April 29, 1966

June 3, 1966

November 11, 1966

December 9, 1966

January 20, 1967

Appendix E

DRAFT OF A BILL TO BE ENTITLED AN ACT TO REWRITE ARTICLE II, SECTIONS 4,
5, AND 6 OF THE CONSTITUTION OF NORTH CAROLINA, WITH RESPECT TO REPRESENTATION IN THE GENERAL ASSEMBLY OF NORTH CAROLINA.

[The text of this bill, together with an explanatory memorandum, will be found in the Report of the Subcommittee, printed as Appendix B, above.]

Appendix F

A BILL TO BE ENTITLED AN ACT TO REWRITE ARTICLE II, SECTION 28, OF THE CONSTITUTION OF NORTH CAROLINA WITH RESPECT TO THE COMPENSATION OF MEMBERS OF THE GENERAL ASSEMBLY.

The General Assembly of North Carolina do enact:

Section 1. Article II of the Constitution of North Carolina is amended by rewriting Section 28 thereof to read as follows:

"Sec. 28. Compensation of members and officers of the General Assembly. The members and officers of the General Assembly shall receive for their services a compensation to be established by the General Assembly. An increase in the compensation of members shall become effective at the beginning of the next regular session of the General Assembly."

Sec. 2. The amendment set out in Section 1 of this Act shall be submitted to the qualified voters of the State at the next general election. That election shall be conducted under the laws then governing general elections in this State.

Sec. 3. At that election, the qualified voters favoring the amendment set out in Section 1 of this Act shall vote ballots on which shall be printed or written the words:

"FOR constitutional amendment establishing procedure for fixing compensation of members and officers of the General Assembly, and denying benefit of any increase in compensation to members of session which enacts it," and those voters opposed shall vote ballots on which shall be printed or written the words:

"AGAINST constitutional amendment establishing procedure for fixing compensation of members and officers of the General Assembly, and denying benefit of any increase in compensation to members of session which enacts it."

Sec. 4. If a majority of the votes cast thereon be in favor of the amendment set out in Section 1 of this Act, the Governor shall certify that amendment under the Great Seal of the State to the Secretary of State, who shall enroll that amendment so certified among the permanent records of his office, and the amendment shall become effective upon that certification.

Sec. 5. All laws and clauses of laws in conflict with this Act are repealed.

Sec. 6. This Act shall become effective upon its ratification.